

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No.116

CR No.4025 of 2022 (O&M)
Date of Decision: 11.10.2022

M/s Neelkanth Mahadev Ispat

.... Petitioner

Versus

M/s Rana Enterprises and another

... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Sohrab Dhanda, Advocate
for the petitioner.

TRIBHUVAN DAHIYA, J. (ORAL)

CM-12310-CII-2022

Prayer in the instant application is for grant of exemption from
filing of certified as well as true typed copies of Annexures P-1 to P-5.

Application is allowed subject to all just exceptions.

CR No.4025 of 2022

This revision petition under Article 227 of the Constitution of
India has been filed for setting aside the order dated 18.01.2022
(Annexure P-1), whereby the trial Court dismissed the petitioner/plaintiff's
application for condonation of delay as well as the application for restoration
of the suit.

2. Learned counsel for the petitioner has argued that the impugned
order has been wrongly passed since on 20.07.2019, when the case was fixed
for service of the defendants on furnishing of Registered Covers and
Acknowledgement Dues (RCs and A.D.) and payment of cost of Rs.500/-,
there was a resolution of no work by the Lawyers. Therefore,

petitioner/plaintiff's counsel could not attend the Court, which led to dismissal of the suit for non prosecution.

3. The argument raised by learned counsel for the petitioner can not be accepted in the facts and circumstances of the case as apparent from the order dated 18.01.2022 passed by the trial Court. It has been recorded therein that the suit for recovery was filed by the petitioner/plaintiff on 23.08.2017. On 29.11.2017, notice issued to the defendant was received back unserved with the report that the defendant-firm stood closed. On request of plaintiff's counsel, notice was ordered to be issued to the defendant on filing of correct address for 03.04.2018. The correct address was not filed and again, vide order dated 17.07.2018, notice to the defendant was ordered to be issued for 23.10.2018 on filing of correct address. Thereafter, the case remained pending from 03.04.2018 to 20.07.2019 at the same stage. Despite availing several opportunities by the plaintiff, registered covers were not filed. Even costs imposed by the Court twice were not deposited. It was further held that the plea of no work resolution by the Lawyers on 20.07.2019 was no ground for setting aside the order of dismissal of the suit on account of the conduct of the plaintiff in repeatedly failing to comply with the earlier orders of the Court for furnishing correct address and depositing the costs as directed.

4. In view of the aforesaid facts, it is apparent that the petitioner/plaintiff's conduct has not been *bona fide*. He has repeatedly violated orders of the Court and has failed to comply with the very basic requirement of furnishing correct address of the defendant for effecting service of notice on it. There is no explanation forthcoming as to why it was not done by him, nor as to why orders of the Court to deposit the costs have

been violated. Mere suspension of work on account of a resolution of the Bar can not be said to have prevented the plaintiff from filing correct address and depositing the costs with the District Legal Services Authority, Fatehgarh Sahib, as directed by the trial Court.

5. In view of these facts, there is no ground to interfere with the impugned order.

6. Petition stands dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

11.10.2022
Maninder

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No