

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-4979-2019

Date of Decision: 03.03.2022

Dharminder Kumar and another

....Petitioners

VS

Kashmiri Lal

....Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Ashok Kumar Khunger, Advocate
for the petitioners

SUDHIR MITTAL, J. (Oral)

The plaintiffs are the petitioners. They had filed a suit for specific performance of agreement to sell which was dismissed for non-prosecution vide order dated 23.04.2015. Application for restoration of the suit was dismissed vide order dated 01.02.2018 and appeal there against also failed.

Learned counsel for the petitioners has argued that petitioner No. 1 had suffered heart attack and was unable to pursue the case. Immediately after recovery enquiry was made and it was realized that the suit had been dismissed for non-prosecution and, accordingly, application for restoration was filed. Dismissal of the said application has resulted in grave prejudice as it is the policy of law that litigation should be decided on merits rather than on the basis of technicalities.

A perusal of the order of the trial Court passed on the application filed for restoration shows that petitioner No. 2 was a co-plaintiff. Assuming that petitioner No. 1 was so unwell that he could not attend the Court proceedings petitioner No. 2 could very well have taken necessary steps in his absence. Further, there is no explanation for non-appearance of the lawyers. The application for restoration was filed after 1 ½ years and meanwhile the children of petitioner No. 1 were regularly attending to the shop. Thus, there is no

satisfactory explanation for non-appearance and the Courts below were justified in passing the impugned orders.

The revision petition has no merit and is dismissed.

03.03.2022
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(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No