

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 2725 of 2020

Date of Decision: 31.08.2022

Baljit Singh and Others

... Petitioner(s)

Versus

Gurdev Kaur and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Ankit Bishnoi, Advocate
for the petitioner(s).

Ms. Puja Chopra, Advocate
for the respondent No.1 to 3.

Anil Kshetarpal, J.

1. From the reading of the orders passed by both the Courts below, it is evident that both the Presiding Officers have failed to apply their judicial mind while deciding an application for restoration of the suit, which was filed within limitation.

2. On 08.12.2008, the suit, filed by the plaintiff/petitioners, was dismissed for non-prosecution as their learned counsel failed to attend the hearing. The case was fixed for filing of reply by the defendants to the application under Order VIII Rule 1A of the Code of Civil Procedure, 1908. It is observed that the trial Court could not have dismissed the suit, particularly when the case was only fixed for filing reply to the application. At the most, the application could have been dismissed.

3. Both the Courts below have also overlooked that once the application for restoration of suit was filed within limitation, the Court

should have restored the suit and proceeded to decide the case on merits.

The entire approach of both the Courts below to say the least was myopic.

4. Keeping in view the aforesaid facts, the present revision petition is allowed and the orders, under challenge, are set aside. The suit filed by the plaintiffs is restored to its original number. Let the trial Court decide the suit on merits, in accordance with law. The parties, through their learned counsel, are directed to appear before the trial Court on 30.09.2022.

(Anil Kshetarpal)
Judge

August 31, 2022
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No