

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Civil Revision No.4984 of 2022
Date of Decision:-15.11.2022**

Hanuman

...Petitioner

Versus

Mamta Gaur and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. J.P. Sharma, Advocate
for the petitioner.

NIDHI GUPTA J.(Oral)

Prayer in this petition is for setting aside the impugned order dated 15.7.2022 (Annexure P-1) passed by the Additional District Judge, Narnaul vide which the application for restoration dated 10.4.2017 (Annexure P-2) has been dismissed.

Learned counsel for the petitioner submits that the petitioner had filed an appeal before the learned Additional District Judge, Narnaul on 28.8.2015 against the judgment and decree dated 31.3.2015 passed by the Civil Judge (Jr. Divn.) Narnaul, vide which the suit for declaration and permanent injunction filed by the present petitioner/plaintiff was dismissed. Learned counsel further submits that due to lack of communication between the petitioner and his counsel before the first Appellate Court, the requisite process fee and costs of Rs.500/- as was ordered on 07.12.2016 (Annexure

P-3), could not be deposited. He submits that on 10.3.2017 due to non-appearance of the counsel as well as the petitioner before the Appellate Court, the appeal was ordered to be dismissed in default.

Learned counsel for the petitioner submits that because the counsel for the petitioner/appellant was busy in another Court at Narnaul and the appellant was ill on that date and even there was no communication in between them, the appeal remained unrepresented and consequently dismissed in default.

Thereafter, the petitioner/appellant filed an application for restoration of the said appeal on 10.4.2017 (Annexure P-2) but the same was also dismissed vide impugned order dated 15.7.2022.

Now, to clear that part, learned counsel for the petitioner submits that the application dated 10.4.2017 was filed by another counsel and due to lack of communication between the previous counsel and the new counsel, the order regarding depositing of costs was not communicated to the new counsel by the previous one, resulting into dismissal of the application dated 10.4.2017.

Learned counsel for the petitioner submits that consequences of lack of communication between two counsel should not be suffered by the petitioner and therefore prays that this revision petition be allowed and the application dated 10.4.2017 after restoration may be allowed, even subject to payment of costs.

Since the prayer is limited, therefore, the petition stands allowed. The order dated 15.7.2022 (Annexure P-1) dismissing the

application for restoration is set aside and the application dated 10.4.2017 after restoring is ordered to be allowed and the Civil Appeal No.477 of 2015, instituted on 28.8.2015, titled 'Hanuman vs. Smt. Mamta Gaur and others' is ordered to be restored to its original number, subject to payment of costs of Rs.10,000/-.

November 15, 2022
Vijay Asija

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No