

S. No.112

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

CR No.5542 of 2022

Date of Decision:30.11.2022

Om Prakash Yadav

.....Petitioner

Vs.

Dakshin Haryana Bijli Vitran Nigam and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Amandeep, Advocate for Mr. Neeraj Sheoran,
Advocate for the petitioner.

DEEPAK GUPTA, J.

Petitioner is aggrieved of the order dated 20.10.2022 whereby learned Civil Judge (Junior Division), Gurugram has dismissed the application for restoration of the suit.

Civil Suit titled Om Prakash Yadav Vs. Dakshin Haryana Bijli Vitran Nigam, bearing CS-18161 of 2014 was dismissed in default on 18.07.2017. Plaintiff (petitioner herein) moved an application for restoration on 16.11.2018, which has been dismissed by way of the impugned order.

It is submitted by learned counsel that on 16.05.2017, the case was adjourned to 18.07.2017 for consideration of the pending application. However, on the adjourned date, his counsel did not appear. Petitioner came to know about the same after contacting his counsel. He then engaged a new counsel and moved an application for restoration. It is submitted that there was no fault of the petitioner- plaintiff and that for the conduct of his counsel, petitioner could not be prejudiced.

After hearing learned counsel and perusing the paper book, I find no merit in the revision. It is revealed that after dismissal in default of

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the suit on 18.07.2017, the application was moved for restoration on 16.11.2018 i.e. after the lapse of one year and almost four months. There is nothing to show that application for restoration was accompanied by any application for condonation of delay. A period of 30 days is provided for moving an application for restoration as per Article 122 of the Limitation Act and obviously the application for restoration was much beyond the period of limitation. Not only this, learned trial Court rightly observed that the mere fact that counsel had not appeared being busy in another Court could not be ground for non-appearance. The negligence on the part of the petitioner- plaintiff is evident as for a period of more than one year, he did not bother to enquire about the status of his case. The learned trial Court has also observed that earlier also, the suit had been dismissed in default on 10.02.2016 and was later on restored on 03.11.2016. It is, thus clear, that petitioner was wasting time of the Court by not pursuing the matter properly. I find no illegality or perversity in the impugned order, and, therefore, the present revision is dismissed.

November 30, 2022
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned
Whether Reportable

Yes/No
Yes/No