

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

103

CR-7402-2019

Date of decision: 23.08.2022

Jarnail Singh

.....Petitioner

Versus

Karanvir Singh Rai and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. K.K. Thakur, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

The instant revision petition has been filed under Article 227 of the Constitution of India for setting aside of the order dated 27.09.2019 (Annexure P/7) passed by learned Civil Judge (Jr. Divn.), Kharar whereby an application dated 20.11.2008 (Annexure P/3) filed by the petitioner for restoration of the suit which was dismissed in default on 06.06.2008 (Annexure P/2) and the application for condonation of delay in filing restoration application was also dismissed.

Learned counsel for the petitioner contends that the petitioner had instituted a suit for specific performance on the basis of an agreement to sell on 03.05.2005. The Court below granted temporary injunction restraining the respondents from alienating the property in any manner during the pendency of the suit. The appeal preferred by the respondents to impugn the above mentioned ad interim order was dismissed by the lower appellate Court on 10.11.2017. Resultantly Civil Revision No.14720 of 2008 was filed by the respondents in this Court wherein the petitioner was duly represented

by a counsel. However, on 25.09.2008 the respondent withdrew the revision petition on the ground that the civil suit filed by the petitioner along with proforma respondent stood dismissed in default on 06.06.2008. Learned counsel submits that thereafter the petitioner went to Civil Court, Mohali and Civil Court at Kharar to know about status of the case. It was only on 11.11.2008 that the petitioner learnt about the dismissal of the suit. Learned counsel, thus, submits that the petitioner was unaware about the suit having been dismissed in default as he was all along under the impression that the matter was still pending in this Court.

I have heard learned counsel and perused the relevant material on record.

The suit of the petitioner was dismissed in default on 06.06.2008, however, the application for its restoration was moved only on 20.11.2008, which admittedly is much beyond the period of 30 days as prescribed under Article 122 of the Schedule to Limitation Act, 1963.

The submissions made by the learned counsel that the petitioner learnt about the dismissal of the suit on 11.11.2008 and hence the delay, deserves to be rejected.

The petitioner was duly represented by a counsel in CR-14720-2008 and it was withdrawn in his presence on the statement of learned counsel for the respondent (petitioner therein) to the effect that it had been rendered infructuous as the suit had been dismissed in default. Therefore, it cannot be believed that from 25.09.2008 to 11.11.2008 the petitioner was unaware about the dismissal of his suit.

Furthermore, the petitioner has failed to bring to the notice of this Court any sufficient reason for the delay in filing of the application for restoration of his suit.

It would be relevant to point out here that the application for restoration was dismissed for non-prosecution and thereafter even the application for its restoration was dismissed multiple times.

In the circumstances, this Court is unable to accept the prayer of the petitioner as law helps the vigilant and not the dormant. Hence, the petition being devoid of any merit is dismissed.

23.08.2022

Vinay

(MANJARI NEHRU KAUL)

JUDGE

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