

In the High Court of Punjab and Haryana, at Chandigarh

S.A.O. No. 1 of 2023

Date of Decision: 17.07.2023

Kanshi Ram

... Appellant(s)

Versus

Ritu and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. S.S.Sahu, Advocate
for the appellant(s).

Anil Kshetarpal, J.

1. In exercise of the powers under Order VII Rule 11 of the Code of Civil Procedure, 1908 (hereinafter referred to as “the CPC”), the trial Court rejected the plaint filed in a subsequent suit on the ground that it is not maintainable. The First Appellate Court has held that the previous suit was dismissed for non-prosecution under Order 9 Rule 3 of the CPC, therefore, the subsequent suit is maintainable.

2. As per the Order 9 Rule 3 of the CPC, the plaintiffs have both the options either to bring a fresh suit or to get the earlier one restored.

3. As the previous suit was dismissed under Order 9 Rule 3 of the CPC, therefore, no ground is made out to interfere with the order passed by the First Appellate Court.

4. Keeping in view the aforesaid facts, the present appeal is dismissed.

(Anil Kshetarpal)
Judge

July 17, 2023
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No