

RSA-3782-2019 (O&M)

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

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**RSA-3782-2019 (O&M)
Decided on : 18.10.2023**

Jagtar Singh

. . . Appellant(s)

Versus

Sanjiv Kumar and another

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Munish Garg, Advocate
for the applicant-appellant.

SANJAY VASHISTH, J. (Oral)

CM No. 10070-C-2023

i. This is an application under Order 41 Rule 19 read with Section 151 of CPC, for restoration of the main appeal i.e. RSA-3782-2019, which was dismissed for non-prosecution vide order dated 28.08.2023.

ii. Counsel for the applicant-appellant submits that on 27.02.2020, he was down with severe fever, and was unable to attend the Court proceedings. However, on account of non-appearance, in the interest of justice, matter was adjourned to 20.05.2020. Thereafter, the appeal came up for its hearing on 28.08.2023, but inadvertently, because of recording of wrong date by the staff of the counsel for the applicant-appellant i.e. 25.08.2023 instead of 28.08.2023, counsel could not appear even on the said date.

Thereafter, on 28.08.2023, when nobody appeared, appeal was dismissed for non-prosecution.

iii. Moreover, counsel for the applicant-appellant submits that he seeks restoration of the hearing of main appeal, because same is to be withdrawn to follow the instructions given by his client.

iv. Though, the explanation given by counsel for the applicant-

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appellant, in his application for seeking restoration, does not seem to be acceptable, still taking into consideration the contention of withdrawal of main appeal, prayer made in the present application is allowed.

Accordingly, the main appeal is ordered to be restored to its original number.

CM stands disposed of.

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1. On request of learned counsel for the appellant, main case is taken up for hearing today itself.
2. Counsel for the applicant-appellant submits that CM-11889-C-2023, has been filed for the purpose of seeking withdrawal of main appeal i.e. RSA-3782-2019 (O&M).
3. He further submits that the applicant-appellant do not want to pursue the matter and prays for withdrawal of main appeal.
4. Taking note of the submissions made by counsel for the applicant-appellant and keeping in view the contentions made in the application, which is supported by a notarized affidavit of the applicant-appellant, prayer made in the application is allowed, and the applicant-appellant is permitted to withdraw main appeal. CM stands disposed of.
5. Consequently, main appeal i.e. RSA-3782-2019 (O&M) is disposed of having been withdrawn.

Pending misc. application(s), if any, also stand disposed of.

**(SANJAY VASHISTH)
JUDGE**

October 18, 2023

J.Ram

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