

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

247

CR-2688-2021

Date of Decision :17.02.2023

Surinder Singh

...Petitioner

Versus

Naurang Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Ms. Akansha, Advocate for
Mr. Roopak Bansal, Advocate for the petitioner.

* * *

Harsimran Singh Sethi, J. (Oral)

The present revision petition has been filed challenging order dated 24.01.2017 (Annexure P/2) passed by the Civil Judge (Junior Division), Fatehgarh Sahib by which, application seeking restoration of the civil suit was dismissed as well as order dated 17.02.2021 (Annexure P/3) passed by the Lower Appellate Court by which, an appeal preferred by the petitioner-appellant has been dismissed.

Learned counsel for the petitioner argues that the non-appearance of the petitioner-plaintiff before the trial Court was inadvertent and unintentional and the same was due to reason beyond the his control hence, the application which was filed for recalling the order dated 26.10.2013 has wrongly been dismissed vide impugned order dated 24.01.2017 (Annexure P/2).

Learned counsel for the petitioner submits that the appeal

preferred by the petitioner-appellant has also been dismissed on the ground of maintainability.

I have heard learned counsel for the petitioner and have gone through the record with her able assistance.

From the impugned order dated 24.01.2017 (Annexure P/2), it is clear that the suit was dismissed in default more than once. Initially the suit was dismissed in the year 2003 but was restored on the request of the petitioner-plaintiff in February, 2005. Again the suit was dismissed for default on 28.04.2006 and was restored on 29.03.2007 after imposition of cost of Rs.20,000/-. These facts go to show that petitioner was not interested in pursuing the remedy but only wanted to keep the litigation alive.

Keeping in view the facts and circumstances of the present case, that the suit had been dismissed in default twice prior to 26.10.2013 hence, it cannot be said that the petitioner was diligent enough to pursue the remedy. Even otherwise, no valid justification has come on record for non-appearance of the petitioner/plaintiff as no application for restoration was filed after a period of six months.

Keeping in view the above, as no infirmity is found in the impugned orders, no interference is called for by this Court and the revision petition is accordingly dismissed.

February 17, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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