

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

**CR-4409-2019 (O&M)
Date of Order: 20.07.2023**

LALITA AND ANOTHER

.Petitioners

Versus

BIMLA DEVI AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Jai Singh Yadav, Advocate,
for the petitioners**

**Mr. Aditya Yadav, Advocate,
for the respondents.**

ANIL KSHETARPAL, J

1. Refusal of the trial court to restore the suit to its original number while re-calling the order, dismissing the suit for non-prosecution has prompted the petitioners to file this revision petition.
2. The petitioners filed a suit for grant of relief of damages and for mandatory and permanent injunction. On account of the non-appearance of the learned counsel on 23.01.2017, the suit was dismissed for non-prosecution. The application for restoration was filed nearly 16 days after the date of dismissal of the suit while alleging that the clerk of the learned counsel representing the plaintiffs did not update the diary of Court cases, resulting in non-appearance of the learned counsel.
3. The learned trial court has dismissed the application on the ground that the name of the clerk has not been disclosed and the relevant excerpts of the court case diary have not been produced.

4. This revision petition has been filed to challenge the correctness of the impugned order dated 15.12.2018.

5. This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book.

6. The learned counsel representing the plaintiffs (petitioners herein) submits that the application was supported by an affidavit of the counsel representing the plaintiffs. He further submits that there was no malafide reasons on the part of the plaintiffs not to appear in the Court.

7. On the other hand, the learned counsel representing the respondents submits that the plaintiffs are not serious in prosecuting their suit.

8. This court has considered the submissions of the learned counsels representing the parties.

9. While deciding the application for restoration of the suit or the appeal which has been dismissed for non-prosecution, the Court is expected to take a holistic view of the matter. The approach of the Court has to be pragmatic. There may be some negligence on the part of the learned counsel representing the plaintiffs, however, the plaintiffs have engaged a professional to prosecute their suit. Moreover, the application was filed promptly within a period of 16 days, whereas the limitation for filing such application is 30 days.

10. Keeping in view the aforesaid facts and discussions, the approach of the learned trial Court was not correct. Hence, the revision petition is allowed. The order passed by the trial court refusing to restore the suit is set aside. The suit is restored to its original number, subject to payment of costs of Rs.5000/- to the defendants.

11. The parties through their counsels are directed to appear before
the trial Court on 18.08.2023.
12. All the pending miscellaneous applications, if any, are also
disposed of.

July 20, 2023
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :YES/NO

Whether reportable :YES/NO