

CR-217-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-217-2023 (O&M)

Date of Decision: 02nd April, 2024

Raj Kumar (Since Deceased) through his LR Seema Rani

... Petitioner

V/s.

Baljinder Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present : Mr. Charanpuneet Singh, Advocate
for the petitioner.

Mr. Ashish Gupta, Advocate and
Mr. Varun Gupta, Advocate
for respondent No. 3.

Mr. P.P. S. Brar, Advocate
for respondent No. 4 and 5.

ANIL KSHETARPAL, J.(Oral)

1. The dismissal of plaintiff's application for restoration of a suit which has been upheld by the First Appellate Court has led to filing of this revision petition.
2. The plaintiff's suit for grant of decree of declaration that he is the owner of the property by virtue of Will executed by Krishan Chand was dismissed in default on 12.11.2009. The application for restoration of the suit was filed on 02.12.2009 i.e. within a period of 20 days from the date of dismissal.
3. Both the Courts have factually erred that the application for

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restoration was filed on 12.01.2010. In order to verify this fact, the lower Court record was requisitioned. It is evident that the application was filed on 02.12.2009 and not on 12.01.2010. There is an endorsement by the Presiding Judge dated 02.12.2009, while requesting the Court officials to submit report for 12.01.2010. Thus, the application was filed on 02.12.2009 and not on 12.01.2010. It is shocking that both the Courts have overlooked this basic fact resulting in filing of this revision petition.

4. It is evident that both the Courts have directed the parties to lead evidence in the restoration application, which is unusual. Once an application has been filed for restoration within limitation, the Court could have been well advised to restore the suit and proceed to decide the matter. It has taken 15 years for restoration of suit. The factual error on the part of trial Court as well as First Appellate Court is not disputed by counsel representing the respondents.

5. Hence the impugned orders are set aside and the suit is restored to its original number.

6. Parties through their counsel are directed to appear before the trial Court on 30.04.2024.

7. The revision petition stands allowed.

8. All the pending application(s), if any, are also disposed of.

02nd April, 2024 (ANIL KSHETARPAL)
Seema JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes /No