

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

CWP-2445-2024

Date of decision : 05.02.2024

Bir Singh @ Veer Singh

.....Petitioner

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Ishnoor Singh, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for setting aside the order dated 07.11.2023 (Annexure P-4) and order dated 09.10.2023 (Annexure P-2) passed by respondent No.2 whereby the petition for redemption of land has been dismissed in default wrongly and illegally.

It has been submitted by counsel for the petitioner that the petition filed by the petitioner for redemption of mortgage has been dismissed in default by respondent No.2 vide order dated 09.10.2023. He has submitted that as is evident from the zimni orders, the petitioner duly appeared on the earlier date i.e. 27.07.2023 but he noted the wrong date as 27.10.2023 and thus, he as well as his counsel remained absent. He submits that the case has been dismissed in default on 09.10.2023 and the application filed by him for restoring the same has also been dismissed without passing any speaking order vide impugned order dated 07.11.2023. He has submitted that the petitioner will suffer an irreparable loss and injury if the case is not decided on merits.

Notice of motion.

On asking of the Court, Ms. Upasana Dhawan, AAG, Haryana accepts notice on behalf of the State.

Heard. On hearing counsel for the parties and perusing the record, it is apparent that the case has been dismissed in default by respondent No.2. Thereafter, petitioner also filed the application for restoring the same, which was dismissed *in limine*.

This Court finds no justification for the dismissal of the main petition in default as there was only one occasion i.e. on 09.10.2023 when the petitioner or his counsel had failed to appear and respondent No.2 in a hasty manner dismissed the petition in default. At least one more date was required to be given for the appearance of the petitioner or his counsel. So under these circumstances, the impugned orders dated 09.10.2023 and 07.11.2023 are *set aside*. The case is restored to its original number. The Collector is directed to issue notice to both the sides and proceed with the hearing of the case for the decision of the same on merits expeditiously. However, it is being made clear that if the respondent-Collector finds that the petitioner is intentionally delaying the proceedings, he would be at liberty to take the action in accordance with the law.

Petition is disposed of in above-mentioned terms.

(RAJESH BHARDWAJ)
JUDGE

05.02.2024
m. sharma

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