

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-1912 of 2020 (O&M)
Date of Order:04.01.2024

Indraj and another

..Petitioners

Versus

Mange Ram and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. R.P.S.Jammu, Advocate,
for the appellants.

Mr. Sanjiv Gupta, Advocate,
for the respondents.

ANIL KSHETARPAL, J

1. In this revision petition, the plaintiffs assail the correctness of the order passed on 19.11.2019, by the trial court while refusing to condone the delay of nearly 1 year and 3 months, in filing the application for restoration of the suit which was dismissed in default.

2. The trial court has held that the plaintiffs have failed to furnish sufficient explanation for filing the application after the delay of nearly 15 months from the day the suit was dismissed for non-prosecution.

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

4. The learned counsel representing the petitioners submits that in the beginning the suit was pending in the court of some other Presiding Judge. Subsequently, it was transferred to the court of another Presiding Judge and on the very first day the new Presiding Judge dismissed the case for non-prosecution.

5. This court has considered the submissions of the learned counsel representing the parties.

6. While filing an application for restoration of the case, the plaintiffs have asserted as under:-

“That earlier the above noted case was fixed for 24.05.2016 for consideration and arguments but the counsel of the plaintiffs was busy in the court at Sirsa and could not reach the court at Ellenabad when the case was called and when the counsel of the plaintiffs came present before the Hon'ble Court in the above noted case, upto date time the order of dismissed in default was announced and passed against the plaintiff's by the Hon'ble Court.”

7. The application for condonation of delay was not filed along with the application for restoration of the case but it was subsequently filed. In the aforesaid application, no reason whatsoever was given to explain the delay of nearly 15 months. Furthermore, it is evident that the plaintiffs and their counsel were having the knowledge that the case has been transferred to another Presiding Judge. In fact, the plaintiffs have themselves asserted in para 2 of the their application that their counsel went to the court on the date of hearing but he reached after the suit was dismissed in default. In such circumstances, the application for restoration could have been filed on the next day or within a reasonable time. In absence of the explanation for delay of not filing the application for more than 15 months, the trial court has dismissed the application.

8. This court does not find it appropriate to interfere with the
aforesaid order as the order is not perverse or bad in law.
9. Dismissed accordingly.
10. All the pending miscellaneous applications, if any, are also
disposed of.

January 04, 2024
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO