

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.R. No.3056 of 2019 (O&M)

Date of Order:05.01.2024

UDMI RAM DECEASED THROUGH LRS

.Petitioner

Versus

SUBASH CHANDER MITTAL AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ravinder Rana, Advocate
for the petitioner.

Mr. Anuj Balyan, Advocate
for respondent no.1.

ANIL KSHETARPAL, J

1. Through this revision petition, filed under Article 227 of the Constitution of India, the petitioner assails the correctness of the order 13.11.2018, passed by the Addl. District Judge, Gurugram, while refusing to re-admit the appeal which was dismissed for non-prosecution, on 27.01.2014.

2. The application for re-admission of the appeal was filed on 25.02.2014, i.e. within a period of one month. A perusal of the impugned order shows that the First Appellate Court held that the appellant is guilty of seeking repeated adjournments despite last opportunity and he has not led any evidence to prove his stand.

3. On a careful perusal of the impugned order, it is evident that the opinion formed by the First Appellate Court on the conduct of the petitioner does not require interference. However, at the same time, efforts are required to be made to dispose of the cases on the basis of the material

placed on the file, rather than in default. Once an adjournment has been granted and repeated adjournments are sought for, the Court is entitled to impose cost and take such other steps which may be necessary for avoiding further adjournment. However, it would not be appropriate to hold that only on the basis of the previous conduct, the application filed for restoration of the appeal should be dismissed.

4. In this case, the application was filed within a period of 30 days from the date the appeal was dismissed for non-prosecution. It is the petitioner's first appeal against the judgment and decree passed by the court below. The dispute is with regard to the immovable property. In these circumstances, the First Appellate Court shall have been liberal.

5. Keeping in view the aforesaid facts, the order dated 27.01.2014, is set aside, subject to payment of costs of Rs.10,000/- to the respondent. This order has been passed on the undertaking given by the learned counsel representing the petitioner that he will address the arguments in the main appeal on the very first date of hearing.

6. Disposed of accordingly.

7. The parties through their learned counsel are directed to appear before the First Appellate Court, on 01.02.2024.

8. All the pending miscellaneous applications, if any, are also disposed of.

January 05, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO