

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

CWP-12484-2022

Decided on 16.01.2024

Zora Singh and another

... Petitioners

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Amandeep Goswami, Advocate, for the petitioners.

Mr. Rajesh Gaur, Addl. Advocate General, Haryana.

Mr. Nipun Verma, Advocate for respondents No.8 & 9.

RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for quashing the impugned letter/order dated 27.04.2022 (Annexure P-2) passed by respondent No.2 vide which the restoration application of the petitioner has been dismissed merely on the ground of delay against the principles of natural justice; further to direct respondent No.2 to restore the case of the petitioners to its original position and decide the same on merits in the interest of justice.

It has been submitted by learned counsel for the petitioners that the petitioners filed an application in the year 2014 under Section 11 of the Land Revenue Act against the warrant of possession issued by respondent No.3. He submits that notices were issued by respondent No.2 and the same were pending adjudication before him. He submits that the application was dismissed in default on 22.09.2021 due to non-appearance of the petitioners or their counsel. It is submitted that Hon'ble the Chief Justice issued directions regarding the computation of period of limitation in filing the cases due to the situation arisen on account of Covid-9. He submits that the application under

Order 9 Rule 9 CPC was filed by the petitioners for restoration of the main application, which was dismissed in default. It is submitted that the application filed for restoration was dismissed by respondent No.2 by passing the impugned order dated 27.04.2022. It is submitted by learned counsel for the petitioners that due to outbreak of Covid-19, it was a period of restrictive working and hence, the petitioners or their counsel failed to appear in the case. It is submitted that on account of the same, the application filed was dismissed in default. He submits that without taking into consideration the settled principles of law, respondent No.2 dismissed the application filed for restoration, which is totally unsustainable in the eyes of law. He has relied upon the judgment of Hon'ble Supreme Court in Smt. Lachi Tewari and others vs. Director of Land Records and others, 1984 AIR (Supreme Court) 41. He further submits that the application filed by the petitioners be restored by setting aside the impugned order and respondent No.2 be directed to decide the case on merits.

However, learned counsel for respondents No.8 & 9 has opposed the submissions made by counsel for the petitioners. He has submitted that the impugned order has been passed in accordance with the law and suffers from no illegality.

After hearing learned counsel for the parties, it is apparent that the petitioners filed an application which was pending adjudication before respondent No.2. It is evident that the case was not decided on merits and the same was dismissed in default due to non-appearance of the petitioners or their counsel. There is no gainsaying that during Covid-19 period all the Courts throughout the country were working in restrictive mode. Thus, the application dismissed in default should have been restored and the same should have been

decided on merits. However, respondent No.2 failed to appreciate the same. In the considered opinion of this Court, the impugned orders dated 22.09.2021 and 27.04.2022 are totally unsustainable in the eyes of law and hence, the same are set aside. The petition is allowed. Respondent No.2 is directed to restore the main application filed by the petitioners to its original number and decide the same on merits as per law after hearing both the sides.

Copy of this order be conveyed to respondent No.2. On receiving the same, respondent No.2 would issue notice to the parties and decide the case expeditiously preferably within three months, from the date of receipt of copy of this order

(RAJESH BHARDWAJ)
JUDGE

16.01.2024
sharmila

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No