

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3844 of 2019 (O&M)
Date of Order:07.03.2024

Gurinder Singh and others

.Petitioners

Versus

Didar Singh (deceased) through his LRS and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vikas Mohan Gupta, Advocate
for the petitioners.

Mr. Varun Parkash, Advocate
for the respondents.

ANIL KSHETARPAL, J

1. On 19.02.2024, the following order was passed:-

“Though, only an application for restoration of the revision petition has been listed, however, the learned counsel representing the parties are requested to come prepared for the hearing in the main case.

The office is directed to list the case on 07.03.2024, in the urgent list after informing the learned counsel representing the parties.

2. The learned counsel representing the parties have been heard at length.

3. The petitioners' application for restoration of the suit which was dismissed for non-prosecution on 15.04.2010, has been dismissed by both the courts below. It has been found that the petitioners have failed to furnish sufficient explanation for his non-appearance on 15.4.2010.

4. Both the courts have recorded the following reasons to dismiss the application:-

- (1) The application for restoration was filed after a period of 7 months and 14 days from the date of dismissal of the suit.
- (2) The plaintiff admits that he knew the next date of hearing, however, he did not appear as he was shifting his business from Amritsar to Jammu. The petitioners have failed to furnish any explanation as to why their lawyers did not appear in court.
- (3) The petitioners claim that they came to know about the dismissal only a date prior to the date when the application was filed, however, the same has been found unbelievable.
- (4) The plaintiffs have not produced any evidence for the last 4 dates of hearing prior to the dismissal of the suit in default.

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

6. The learned counsel representing the petitioners submits that the petitioners were busy with setting up their business in Jammu and therefore they failed to properly prosecute the case. He submits that the petitioners have paid Rs.10,00,000/- as earnest money and also paid court fee while filing the suit.

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

8. It may be noted here that the suit was jointly filed by as many as three plaintiffs. The explanation, if any is with regard to the absence of Sh.

Gurinder Singh, plaintiff no.1, however, there is no explanation as to why plaintiffs no.2 and 3 failed to prosecute the case. Moreover, both the courts have drawn conclusion on the basis of material placed on file, which is not shown to be suffering from any perversity.

9. Hence, dismissed.
10. All the pending miscellaneous applications, if any, are also disposed of.

March 07, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO