



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

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CR-3852-2024 (O&M)
Date of decision: 12.07.2024

Shashi Gupta

...Petitioner

Versus

Gian Chand Gupta

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Parvinder Moar, Advocate for the petitioner.

VIKAS SURI, J.(Oral)

1. This revision petition under Article 227 of the Constitution of India has been filed by the defendant-petitioner for setting aside order dated 10.05.2024 (Annexure P-3) passed by learned Civil Judge (Junior Division), Chandigarh, whereby the application filed on behalf of the plaintiff-respondent for restoration of the suit has been allowed.

2. At the very outset, learned counsel for the petitioner submits that the sole ground urged in this petition is that the instant suit was dismissed in default on 26.07.2022 and the same has been restored vide order dated 10.05.2024. It is alleged that the plaintiff-respondent got the present recovery suit dismissed in default as a part of the larger design as on account of the delay having been caused in its decision, if it succeeds the liability to pay interest would be fastened upon the petitioner.

3. Heard learned counsel for the petitioner and with his able assistance, perused the record.



4. Undisputedly, the suit was dismissed in default on 26.07.2022. It is also noticed in the impugned order that after the death of the previous counsel of plaintiff-respondent, the subsequent counsel had filed fresh power of attorney on 23.04.2021. The application for recalling the order dated 26.07.2022 was filed promptly thereafter. The trial Court also noticed that substantial rights of the parties are involved in the civil suit and a fair opportunity of hearing ought to be provided to the parties for decision of *lis* on merits and that no party should suffer on account of procedural laws, allowed the said application subject to payment of costs.

5. As regard to sole contention of learned counsel for the petitioner that in case the suit is decreed, the liability to pay interest for the intervening period would also be fastened upon him, is pre-mature. The said plea is to be first raised before the Court where the suit is pending and as such, this Court refrains from observing anything in that regard.

6. No other point has been raised or urged.

7. Accordingly, finding no illegality or infirmity in the impugned order dated 10.05.2024, the present revision petition is dismissed.

July 12, 2024
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(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes / No

Whether Reportable : Yes / No