

2024-PHHC-065477



Date of decision : 09.05.2024

1. **CR-4810-2023(O&M)**

Kans Kaur @ Kanso **...Petitioner**

Vs.

Harpal Singh and another ...Respondents

2. CR-4835-2023(O&M)

Kans Kaur @ Kanso **...Petitioner**

Vs.

**Banso @ Harbans Kaur (since deceased)
through her LRS and others** **...Respondents**

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sandeep S. Majithia, Advocate;
Mr. Shivdeep, Advocate and
Mr. Chandanpreet Kaur, Advocate
for the petitioner(s).

Mr. Vikas Gupta Advocate
for the respondent No. 1 in CR-4810-2023 and
for the respondent No.3 in CR-4835-2023.

ANIL KSHETARPAL, J. (Oral)

1. With the consent of the learned counsel representing the parties, these two connected revision petitions shall stand disposed of by a common order.

2. Originally, the two cross-suits were filed by the petitioner as well as by the respondents. The civil suit filed by the petitioner was dismissed,

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whereas, the civil suit filed by the respondents was decreed. Two separate first appeals were filed by the petitioner through an out-station counsel. Both the appeals were dismissed in default on 17.02.2017, which subsequently, on applications were restored on 17.01.2020. Thereafter, once again both the appeals were dismissed in default on 28.09.2022. Once again two different applications were filed for restoration of the appeals on 04.10.2022, which have been dismissed by the First Appellate Court on the ground that these appeals are pending for the last nearly 09 years and the petitioner has failed to show any sufficient cause for her absence.

3. The correctness of such order has been challenged in these two revision petitions.

4. Heard the learned counsel representing the parties at length and with their able assistance perused the paper-book.

5. Learned counsel representing the petitioner submits that the petitioner has now engaged a new counsel and she through her legal heirs will address the arguments within one month from today. He submits that the petitioner has already suffered a lot and she has now realized her mistake.

6. On the other hand, the learned counsel representing the respondents submits that repeated opportunities were given by the First Appellate Court to the petitioner or her counsel to address the arguments, however, she did not take effective steps. Hence, there is no scope of interference in these revision petitions.

7. This Court has considered the submissions made by the learned



counsel for the parties.

8. The First Appellate Court is a last Court for re-appreciation of the evidence and law. In fact, the First Appellate Court is required to re-decide the entire matter while keeping in view the reasons recorded by the trial Court while deciding the matter in a particular manner. The dispute is with regard to immovable property i.e. agricultural land measuring more than 22 kanals. Though, the First Appellate Court has granted various opportunities to the petitioner, however, the Courts below are required to make efforts to decide the matters on merits instead of defaults.

9. Keeping in view the aforesaid spirit, the revision petitions are allowed subject to the undertaking given by the petitioner. She shall remain bound to address arguments in both the appeals to be fixed by the First Appellate Court.

10. This restoration of the appeals shall be subject to the cost of Rs.20,000/-, which shall be payable to the respondents by way of demand draft. The parties through their counsel are directed to appear before the First Appellate Court on 30.05.2024.

09.05.2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No