

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

285

CR-6662-2023 (O&M)

Date of Decision : 19.01.2024

SURENDER KUMAR

.....Petitioner

Versus

GOPAL KRISHAN AND OTHERS

.....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. J.P. Sharma, Advocate for the petitioner.
Mr. Manish Mehta, Advocate for respondent No.1.

ALKA SARIN, J. (Oral)

1. The present revision petition has been preferred against the impugned order dated 05.10.2023 whereby the application for restoration of the appeal has been dismissed by the Appellate Authority, Narnaul.
2. On 07.11.2023 the following order was passed :

“Learned counsel for the petitioner while assailing the impugned order, whereby the application filed by the petitioner for restoration/re-admission of his appeal, which was dismissed in default vide order dated 18.04.2023 (Annexure P-1), has been dismissed by the learned Appellate Authority, inter alia contends that counsel for the petitioner failed to appear before the First Appellate Court in the Rent Appeal on 18.04.2023 due to some unavoidable circumstances and consequently, the appeal was dismissed in default. It is further contended that the petitioner was present but he was wrongly shown to be not present at the time of passing of the impugned order dated 18.04.2023 by the Appellate Authority. It is further submitted that the petitioner could not be penalized for any negligence on

the part of his counsel and thus, the appeal deserves to be re-admitted for its hearing.

Notice of motion to respondent No.1 only for 19.01.2024.

In the meantime, the parties are directed to maintain status quo with regard to the premises till the next date of hearing.”

3. Learned counsel for the petitioner would contend that the petitioner himself had appeared and requested for a date as the counsel was out of station. However, the said request was not acceded to and the case was dismissed in default on 18.04.2023. Learned counsel would further contend that the petitioner is willing to compensate respondent No.1 by way of costs.

4. Learned counsel for respondent No.1 has contended that the application is not accompanied by any affidavit of the counsel and a connected appeal preferred by the brother of the petitioner already stands dismissed.

5. Heard.

6. In the present case the petitioner himself had appeared and requested for a date as his counsel was out of town. However, the said request was not acceded to and the case was dismissed in default on 18.04.2023. Thereafter, an application was filed by the petitioner for restoration of the appeal and the said application was dismissed vide order dated 05.10.2023. The present is not a case where none appeared. The petitioner had appeared in person and requested for an adjournment. In view thereof, the impugned order cannot be sustained.

7. In view of above, the present revision petition is allowed subject to payment of Rs.15,000/- as costs to be paid to respondent No.1. The payment of costs shall be a pre-condition to the entertainment of the appeal which is restored to its original number.

8. It is made clear that the Appellate Court would not grant any unnecessary adjournment to either of the parties and shall make every endeavour to dispose off the appeal expeditiously.

9. Disposed off accordingly. Pending application(s), if any, also stand disposed off.

19.01.2024
D.Bansal

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO