

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.8283 of 2019 (O&M)

Date of Order:01.02.2024

Jaswant Singh and another

.Petitioners

Versus

Dharamshala Bhai Chen Sahib Ji Khemkaran and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ashutosh Hoshiarpuri, Advocate
for the applicants/petitioners.

Mr. Amrinderjit Singh Sandhu, Advocate
for the non-applicant/respondents no.1 to 4.

ANIL KSHETARPAL, J**C.M.No.18590-C-2023**

1. For the reasons mentioned in the application, which is supported by an affidavit, Sh. Jaswant Singh son of Sh. Balkar Singh, resident of village Khem Karan, Tehsil Patti, District Tarn Taran is substituted as President of Dharamshala Bhai Chen Sahib Ji, in place of Sh. Hardit Singh (since deceased).

2. The application stands disposed of.

MAIN

3. It is unfortunate that the First Appellate Court refused to restore the first appeal which was dismissed for non-prosecution on account of absence of the appellants or their counsel on 17.07.2015. On 14.08.2015, an application for restoration/re-admission of the appeal was filed which has been dismissed by the First Appellate Court. In the application, it was asserted that the litigation was being looked after by late Sh. Hardit Singh,

who on account of asthmatic attack, could not appear in the Court. The learned counsel also failed to attend the hearing as he was pre-occupied with other cases. The court has dismissed the application on the ground that the appeal has been filed after the period prescribed in the Limitation Act, 1963, though there was an application for condonation of delay also filed. This fact was not relevant for the decision of an application filed for restoration of the appeal. It is not in dispute that the application was filed within a period of one month from the date the appeal was dismissed for non-prosecution. Late Sh. Hardit Singh, at the relevant time, was 92 years old and has died.

4. Keeping in view the aforesaid facts, the order dated 29.08.2019 is set aside. The appeal is restored/re-admitted for hearing.
5. Disposed of accordingly.
6. The parties through their counsel are directed to appear before the First Appellate Court, on 29.02.2024.
7. All the pending miscellaneous applications, if any, are also disposed of.

February 01, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO