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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO (COMM) 146/2024**

M/S PRECISION TECH ENTERPRISESAppellant
Through: Mr Amit Ojha, Advocate.

versus

PUNJAB NATIONAL BANK
THROUGH BRANCH MANAGER & ORS.Respondents
Through: Mr Santosh K. Rout, Advocate with
Ms Dharna Veragi, Advocates.

CORAM:
HON'BLE MR JUSTICE RAJIV SHAKDHER
HON'BLE MR JUSTICE AMIT BANSAL

ORDER

% **16.08.2024**

[Physical Hearing/Hybrid Hearing (as per request)]

1. This appeal is directed against the judgment and order dated 07.03.2024. *Via* the impugned judgment, the application preferred by the appellant under Order IX Rule 9 of the Code of Civil Procedure, 1908 [in short, "CPC"] was dismissed.
2. The appellant preferred the application under Order IX Rule 9 of the CPC for restoration of the suit which was dismissed in default on 05.02.2021.
 - 2.1 Concededly, the application for restoration of the suit was filed on 08.06.2023.



3. Although, in the impugned order, there is a reference to the factum of death of the employee handling litigation on behalf of the appellant on 15.02.2020, that by itself cannot explain why no attention was paid to the prosecution of the suit as also the delay in preferring the application for restoration of the same.

4. That said, we may note that between March 2020 and a considerable part of 2021, Covid-19 was prevalent all over the country, including Delhi.

5. The Supreme Court had passed an order in Miscellaneous Application No.21 of 2022 in Miscellaneous Application No.665 of 2021 in the *suo motu* Writ Petition (C) No.3 of 2020 extending, *inter alia*, the period of limitation till 31.05.2022.

6. Therefore, taking a broad view in the matter, we are inclined to set aside the impugned order to enable the appellant to press his suit action, which concerns wrongful withdrawal of Rs.31,35,000/- from his account, based on alleged forged documents.

7. In our opinion, the appellant should have his day in the court. Accordingly, the impugned order dated 07.03.2024 is set aside, subject to payment of costs of Rs.25,000/- to the respondent/bank.

7.1 The costs would be paid within one week.

8. Though there is no specific prayer in the appeal, it is made clear that the net result of setting aside the impugned order dated 07.03.2024 would be that the order dismissing the suit in default i.e., the order dated 05.02.2021, will also collapse.

9 It is ordered accordingly.

10. The suit is restored to its original position and number.

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11. The authorised representative of the parties and their counsel will appear before the concerned court on 18.09.2024.

RAJIV SHAKDHER, J

AMIT BANSAL, J

AUGUST 16, 2024/tr

Click here to check corrigendum, if any

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