



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

Date of decision : 11.02.2025

1. CR-6971-2017 (O&M)
Gurbachan Singh ...Petitioner

Vs.
Ram Nath and others ...Respondents
2. CR-6967-2017 (O&M)
Bhajan Singh @Harbhajan Singh(Deceased) ...Petitioners
through LRs and others

Vs.
Ram Nath and others ...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Karanjit Singh, Advocate
for the petitioner(s).

Mr. Kuldeep Saini, Advocate
for the respondents No. 6 and 7.

Mr. Prabhjot, Advocate
for respondent No.9(i), (ii) in CR-6967-2017 and
for respondent No. 8 (a to e) in CR-6971-2017.

ANIL KSHETARPAL, J. (Oral)

CM-9858-CII-2023 in CR-6971-2017

1. This application has been filed under Order 22 Rule 3 read with Section 151 CPC for bringing on record the legal representatives of petitioner- Gurbachan Singh.
2. For the reasons mentioned in the application, which is supported by the affidavit of Sh. Narinder Singh s/o Gurbachan Singh, the same is allowed subject to all just exceptions and the legal representatives of petitioner



are ordered to be taken on record.

3. Amended memo of parties is taken on record.

4. The application stands allowed.

CM-9582-CII-2023 in CR-6967-2017

5. This application has been filed under Order 22 Rule 3 read with Section 151 CPC for bringing on record the legal representatives of petitioner No.2-Gulzar Singh.

6. For the reasons mentioned in the application, which is supported by the affidavit of Sh. Sukhwinder Singh s/o Gulzar Singh, the same is allowed subject to all just exceptions and the legal representatives of petitioner No.2 are ordered to be taken on record.

7. Amended memo of parties is taken on record.

8. The application stands allowed.

Main case

1. Called twice. Learned counsel representing the contesting respondents, namely, Sh. Naveen Batra has not come forward to assist the Court.

2. These two identical revision petitions have been filed against the two identically worded orders passed by the First Appellate Court while refusing to re-admit the appeal in exercise of power under Order 41 Rule 19 of the Code of Civil Procedure, 1908.

3. In order to comprehend the issues involved in the present case, some relevant facts, in brief, are required to be noticed.

4. The petitioner filed a suit for possession by way of redemption of



mortgage, which was dismissed by the trial Court. He filed appeals which were dismissed for non-prosecution on 05.09.2014, as the appellant was not represented. He filed applications on 21.10.2014 for re-admission of the appeal, which have been dismissed. It is the case of the petitioner that there was a mistake in noting down the next date of hearing as 05.10.2014, instead of 05.09.2014. The application was supported by an affidavit of the petitioner. The Court refused to restore the appeal on the ground that counsel's affidavit or his diary has not been produced. The petitioner claims that the counsel has been changed and therefore, his affidavit could not be filed.

5. It is evident that the First Appellate Court has taken a narrow view of the matter. It was the appellant's first appeal. Efforts should have been made to decide the appeal on merits. The First Appellate Court has not noticed any repeated default on the part of the appellants.

6. In view the aforesaid facts, the impugned orders passed by the First Appellate Court are set aside. Both the appeals filed by the appellants are restored to their original numbers with a request to decide the same on merits.

7. Both, the revision petitions are disposed of.

8. All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

11.02.2025

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