

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

2025:PHHC:109496



**CR-5426-2025 (O&M)
DATE OF DECISION : 20.08.2025**

**VIRENDER SINGH ... PETITIONER
V/S
GOVIND RAM AGGARWAL AND OTHERS ... RESPONDENTS**

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Rajinder Goel, Advocate for the petitioner.

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PARMOD GOYAL, J. (ORAL)

Present revision petition has been preferred by plaintiff-petitioner who is aggrieved by the impugned orders dated 26.04.2023 (Annexure P-6) and order dated 31.01.2025 (Annexure P-8).

2. Petitioner-plaintiff had preferred a suit for declaration and permanent injunction on 17.04.2013. The said suit was dismissed in default on 30.07.2014. On 30.01.2018, petitioner moved an application seeking restoration of his suit dismissed on 30.07.2014. However, said application was dismissed vide order dated 26.04.2023 (Annexure P-6). Appeal against said dismissal was also dismissed vide impugned order dated 31.01.2025 (Annexure P-8).

3. It is the case of petitioner that both the Courts below have wrongly dismissed his application for restoration without taking into consideration that non-appearance on behalf of petitioner in suit was on account of selection of his advocate Sh. S.K.Joon to Judicial Services. It is the case of petitioner that since he was staying Delhi and he had instructed

Sh. S.K.Joon to inform him after decision of his application under Order 39 Rule 1 and 2. He kept on waiting for information from Sh. S.K.Joon without knowing about his elevation. Subsequently, when he visited Bahadurgarh and enquired about the case, it came to his knowledge that his suit stands dismissed for non-appearance on 30.07.2014. Accordingly, he moved an application for its restoration. He submits that his application for restoration is within limitation from date of knowledge and he cannot be penalised for fault of his counsel.

4. Both the Courts below, after considering contentions raised on behalf of petitioner has concluded that petitioner has taken a false plea as from record it is not made out that Sh. S.K.Joon had ever appeared for petitioner in present suit. It was noticed that neither the plaint was filed by Sh. S.K.Joon nor presence of Sh. S.K.Joon was ever recorded, rather Sh. Amit Kumar has been putting in appearance on behalf of the petitioner before dismissal of suit on 30.07.2014.

5. In view of the conclusion drawn by both the Courts, learned counsel for the petitioner was specifically asked by this Court to show that Sh. S.K.Joon has been appearing for the petitioner. However, learned counsel for the appellant claims that Sh. S.K.Joon was engaged by petitioner in another suit in 2010 and thereafter, in present suit also Sh. S.K.Joon was engaged. However, this contention raised on behalf of petitioner is belied by Annexure P-1, copy of plaint duly signed by petitioner. Annexure P-1, copy of plaint goes to show that suit was filed through Sh. Amit Kumar, Advocate. Neither Sh. S.K.Joon had signed the same nor his name appears in the pleadings. No power of attorney in favour of Sh. S.K.Joon is

available on record. He was never marked present for the petitioner in the suit. Sh. Amit Kumar has been appearing for petitioner prior to dismissal of suit preferred by petitioner. Therefore, the story that Sh. S.K.Joon had not informed petitioner on account of his selection as Addl. District & Sessions Judge is not made out from record and seems to be a made up story. Furthermore, along with revision petition, petitioner has annexed copy of gradation list showing that Sh. S.K.Joon has joined services on 03.11.2014, whereas present suit was dismissed on 30.07.2014. Sh. S.K.Joon had joined services after more than 03 months from dismissal of suit. Moreover, I also find story set up by petitioner justifying delay in filing application for restoration to be made up story as petitioner is not living far away from Bahadurgarh and he is resident of Delhi which is adjoining Delhi. It is the claim of petitioner that suit land is owned and possessed by him. If the suit property situated in Bahadurgarh was in possession of petitioner, it was petitioner to explain as to how come he had no knowledge about dismissal of his suit for about three and a half years. It is worth noticing that a litigant cannot be absolved from his primary duty to be vigilant and must follow-up his case.

6. Conduct of petitioner in fact, goes to show that he always knew about dismissal of his petition and has accepted the same but now in order to harass defendants he is again trying to revive the litigation. It is worth noticing that petitioner has challenged sale deeds executed on 01.12.1986, 12.02.1987, 21.07.2005 and 30.12.2005 in the year 2013 by way of suit which petitioner is seeking to revive. From above facts, it is clearly made out that present application for restoration is beyond period of limitation and

conduct of petitioner goes to show that he was aware about dismissal of his suit in default but had chosen not to get it revived within the period of limitation. No fault with the judgements of learned Courts below can be found. The impugned orders are affirmed.

6. Petition is without merit. Hence the same is dismissed.

20.08.2025

Janki

(PARMOD GOYAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No