

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****224****CR-6120-2025(O&M)****Date of decision: 29.11.2025****M/s Shri Balaji Enterprises****...Petitioner(s)****Vs.****Sushil Arora & Another****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Rahul Jaswal, Advocate
for the petitioner.

Mr. Arun Chander Sharma, Advocate
for the respondents.

*********NIDHI GUPTA, J.**

Present Revision Petition has been filed by the plaintiff under Article 227 of the Constitution of India, for setting aside order dated 05.08.2025 (Annexure P5) passed by the learned Civil Judge (Junior Division), Panipat whereby Civil Miscellaneous Application (Annexure P4) filed by the petitioner for restoration of the case file to its original stage by setting aside order dated 05.03.2025, has been dismissed.

2. It is inter alia submitted by learned counsel for the petitioner that unfortunately, on 05.03.2025, when the matter was fixed for the Plaintiff's evidence, neither the Revisionist nor his counsel could appear before the Learned Trial Court due to unavoidable circumstances and illness



of the Revisionist. Consequently, the suit of the Revisionist was dismissed in default for want of prosecution. The dismissal was not on merits but purely for default of appearance, which ought to have been condoned in the interest of justice.

3. Learned counsel further submits that grave injustice shall be caused to the petitioner in case the matter is not restored as the Revisionist had specifically explained that he was suffering from fever around the relevant date, which prevented him from attending Court. Courts have repeatedly recognized illness as a sufficient cause. The Ld. Trial Court erred in discarding this ground merely for want of medical proof, even though no litigant stands to gain by staying absent on a crucial hearing fixed for his evidence.

4. It is submitted that the property in dispute is not merely a piece of real estate but the very office and workplace from which the Revisionist runs his business and sustains his livelihood. It is the center of his daily work, providing financial support to him and his family. It is contended that denial of restoration would mean that the Revisionist is left without legal protection over the premises and becomes vulnerable to dispossession at the hands of the Respondents. The inevitable consequence of losing the suit property would be disruption of business, complete loss of income, and financial ruin for the Revisionist and his dependents. The right to livelihood is a basic necessity, and no litigant



should be deprived of it merely because of an unintentional absence on a single date. Restoration is therefore essential to protect not only the tenancy rights of the Revisionist but also his very means of sustenance.

5. Learned counsel submits that even in the counter-claim filed by the respondents, the respondent is leading ex parte evidence. It is accordingly prayed that the impugned order be set aside and suit of the petitioner be restored to its original stage.

6. In response to the notice of motion issued by a Co-ordinate Bench of this Court vide order dated 10.09.2025, Mr. Arun Chander Sharma, Advocate puts in appearance on behalf of the respondents and files Power of Attorney, which is taken on record.

7. Learned counsel for the respondents vehemently opposes the submissions advanced on behalf of the petitioner and submits that the impugned order suffers from no error. It is contended that the petitioner has exhibited utter lack of respect for the judicial process and has tried to subvert the sanctity of the judicial process by delaying the matter unnecessarily. It is accordingly prayed that the present revision petition be dismissed.

8. No other argument is made on behalf of the parties. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the petitioner.

9. A perusal of record of the case shows that the petitioner had filed the instant suit for permanent injunction (Annexure P1) on 02.11.2018.



The respondents had filed written statement dated 11.04.2019 (Annexure P2) along with reply to the interim injunction application. Along with the written statement, the defendants had filed counter-claim seeking recovery of amount of Rs.2,52,000/- on account of use and occupation of the suit premises by the petitioner at the rate of Rs.12,000/- per month for the period from 01.06.2017 to 28.02.2019. As stated by the petitioner, ex-parte evidence of the respondent is going on in the counter-claim which is fixed for 4.12.2025.

10. Record reveals that the Civil Suit was fixed for evidence of the petitioner on 04.09.2019; and till 11.01.2024 i.e. 5 years thereafter, the petitioner had failed to conclude his evidence. At this stage, the petitioner had moved an application under Order 6 Rule 17 CPC for amendment of the plaint, which was disposed of vide order dated 08.01.2024. The case was again fixed for plaintiff evidence on 21.10.2024; and subsequently, dismissed for non-prosecution vide order dated 05.03.2025 (Annexure P3) as none had appeared on behalf of the petitioner despite the case having been called several times.

11. It has been contended on behalf of the petitioner that he was unable to appear on 05.03.2025 due to unavoidable circumstances and as the petitioner was unwell. However, admittedly, nothing whatsoever/no medical documents have been brought on record to show that petitioner was unwell on the said date.



12. It has also been contended on behalf of the petitioner that suit could not have been dismissed for non-prosecution merely on account of one non-appearance. However, even the said contention is not acceptable as it is not denied by the petitioner that petitioner has availed as many as 25 effective opportunities to lead evidence and till date of dismissal of the Civil Suit for non-prosecution vide order dated 05.03.2025, evidence of the petitioner had not been concluded. Moreover, even application for restoration of suit was filed by the petitioner with considerable delay, only on 02.07.2025 (Annexure P4), along with an application for condonation of delay. Clearly petitioner is not diligently pursuing the present litigation. Thus, the said application of the petitioner for restoration and condonation of delay in filing restoration, has been rightly dismissed. The petitioner alone is to be blamed, as the above act and conduct of the petitioner leaves no doubt that petitioner is not interested in seriously pursuing the present litigation.

13. In this situation, reliance may be placed upon judgment of Hon'ble Supreme Court in **Shiv Cotex v. Tirgun Auto Plast P. Ltd. (SC) : Law Finder Doc Id # 271160**, relevant part of which is as under:-

"A. Civil Procedure Code, Order 17, Rules 1 and 3(a) - Suit for declaration demanding restoration of possession of property of about Rs. 60 lakhs - Plaintiff did not produce evidence despite 3 adjournments - Suit rightly dismissed It was misplaced sympathy towards plaintiff - It is plaintiff alone to be blamed.



B. Civil Procedure Code, Order 17, Rule 1 - Grant of adjournment - Absence of lawyer or his non-availability because of professional work in other court or elsewhere or on the ground of strike call or the change of a lawyer or the continuous illness of the lawyer or similar grounds will not justify more than three adjournments to a party during the hearing of the suit.

C. Civil Procedure Code, Order 17, Rule 1 - Grant of adjournments during pendency of suit - Adjournments have grown like cancer corroding the entire body of justice delivery system - It is sad, but true, that the litigants seek and the courts grant adjournments at the drop of hat - Though provisions of Order 17 Rule 1 of C.P.C. are not mandatory, but adjournments beyond three may be granted for justifiable cause - Justifiable cause means a cause which is not only sufficient cause as contemplated under Order 17 Rule 1 of C.P.C., but unavoidable and sort of compelling necessity like sudden illness of the litigant or the witness or the lawyer; death in the family of any one of them; natural calamity like floods, earthquake, etc. in the area where any of these persons reside; an accident involving the litigant or the witness or the lawyer on way to the Court and such like cause - The list is only illustrative and not exhaustive.”

(Emphasis added)

14. In view of the above, present petition is **dismissed**.
15. Pending application(s) if any also stand(s) disposed of.

29.11.2025
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No