



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR-6698-2024 (O&M)

Date of Reserve: September 02, 2025

Date of Pronouncement:-15.09.2025

Nidhi Agarwal

.....Petitioner

Vs.

Amit Kumar Adhana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Shashwat Tripathi, Advocate, (Through VC)
with Mr. Aditya Sheoran, Advocate
for the petitioner.

Mr. Prateek Jain, Advocate,
for the respondent.

SUDEEPTI SHARMA J.

1. Present revision petition is filed for setting aside order dated 25.07.2024 whereby the application filed by the petitioner for recalling order dated 08.05.2023 and for restoration of civil suit bearing CS No. 2502/2022 titled as '*Nidhi Agarwal vs. Amit Kumar Adhana*', was dismissed by learned Civil Judge (Jr. Divn.) Gurugram.

2. Learned counsel for the petitioner contends that the learned Civil Judge (Jr. Divn.) Gurugram has wrongly dismissed the application filed by the petitioner for recalling order dated 08.05.2023. He further contends that due to wrong advice given by the previous counsel of the petitioner, the civil suit bearing CS No. 2502/2022 titled as '*Nidhi Agarwal vs. Amit Kumar Adhana*' filed by the petitioner was dismissed as withdrawn with the liberty to file a fresh and the petitioner should not suffer because of wrong advice of the previous counsel of the petitioner. He further submits that no prejudice would be caused to the respondent,



since the counter claim filed by him is still pending. Further, since the petitioner filed civil suit for recovery of Rs.58,87,380/- against the respondent, the petitioner would suffer huge loss if the suit is not pursued. Since the petitioner had already paid the Court fee at the time of filing of the previous suit, she would have to deposit the Court fee again if the civil suit is filed afresh. He, therefore, prays that the present petition be allowed and her application for restoration of civil suit bearing CS No. 2502/2022 titled as '*Nidhi Agarwal vs. Amit Kumar Adhana*', be allowed.

3. Per contra, learned counsel for the respondent contends that the application filed by the petitioner has rightly been dismissed, since the petitioner is lying on oath that the suit was withdrawn due to improper advice given by the previous counsel. He, therefore, prays that the present petition be dismissed.

4. I have heard learned counsel for the parties and perused the whole file of this case with their able assistance.

5. A bare perusal of the file shows that the petitioner filed suit for recovery of Rs. 58,87,380/- against the respondent. The respondent filed counter claim in the same suit filed by the petitioner bearing CS No. 2502/2022 titled as '*Nidhi Agarwal vs. Amit Kumar Adhana*'. The petitioner who was appearing in person and was represented by her counsel, suffered a statement that she does not want to proceed further with the suit due to some technical defects and prayed for dismissal of the same as withdrawn with liberty to file afresh. The same was dismissed as withdrawn with liberty to file fresh, vide order dated 08.05.2023. Thereafter, on 25.07.2024, the petitioner moved an application for restoration of the suit by stating therein that the suit was withdrawn with liberty to file fresh on 08.05.2023 due to wrong advice given by her previous counsel. She further stated that she should not suffer due to wrong advice given by her previous counsel. The



respondent filed reply to the same stating therein that petitioner has stated wrong facts on affidavit and the said suit was withdrawn by the petitioner herself.

6. Admittedly, the petitioner filed previous suit for recovery of Rs.58,87,380/- against the respondent. A perusal of order dated 08.05.2023 shows that though the petitioner was represented by the counsel still she made a statement to withdraw the civil suit with a liberty to file a fresh one.

7. A perusal of the file shows that it is because of wrong advice given by the previous counsel of the petitioner as well as lack of legal knowledge of the petitioner that the suit was withdrawn by her with a liberty to file a fresh. She was not aware that she will have to deposit Court fee again if the suit is to be filed afresh.

8. Since, the counter claim filed by the respondent in the same suit is still continuing, therefore, justice demands that the application filed by the petitioner for restoration of the civil suit bearing CS No. 2502/2022 titled as '*Nidhi Agarwal vs. Amit Kumar Adhana*' should be allowed. The reasoning given by learned Civil Judge (Jr. Divn.) Gurugram while dismissing the application filed by the petitioner that the petitioner herself was present and she suffered the statement for withdrawal of the suit against the respondent and that the petitioner appears to be a well educated person, is not acceptable to this Court, since even well educated person cannot be presumed to be knowing legal repercussions of withdrawing a case with liberty to file fresh as happened in the present case wherein the petitioner was not aware that she would have to deposit the Court fee again if she is to file the suit for recovery afresh. Further educated person cannot be presumed to be having legal knowledge as well. This is not a case where no liberty was granted by the Court to file the suit afresh. It is a simplicitor case of withdrawal of suit with liberty to file afresh. A perusal of the order dated 08.05.2023 shows that the



petitioner has withdrawn the suit with liberty to file a fresh due to lack of legal knowledge.

9. This Court has inherent powers under Section 151 CPC to pass such order as may be necessary to meet the ends of justice. Therefore, the present petition deserves to be allowed in the interest of justice.

10. In view of the above discussion, I find merit in the present revision petition and the same is **allowed**. The impugned order dated 25.07.2024 passed by learned Civil Judge (Jr. Divn.) Gurugram is set aside

11. Accordingly, the application filed by the petitioner for recalling order dated 08.05.2023 and restoration of civil suit bearing CS No. 2502/2022 titled as *Nidhi Agarwal vs. Amit Kumar Adhana* is allowed. The civil suit bearing CS No. 2502/2022 titled as *Nidhi Agarwal vs. Amit Kumar Adhana* qua petitioner is restored to its original number.

12. Pending application (s), if any also stands disposed of.

15.09.2025

Gaurav Arora

(SUDEEPTI SHARMA)

JUDGE

Whether speaking/non-speaking : Yes/No

Whether reportable : Yes/No