



CR-59-2024

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

(270)

CR-59-2024

Date of decision:- 08.01.2025

Sukhdev Kaur

... Petitioner

Versus

Jagjit Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Sanjiv Kumar Aggarwal, Advocate and
Mr. Ojas Bansal, Advocate
for the petitioner.

None for the respondent.

SUVIR SEHGAL, J. (ORAL)

1. This revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 12.10.2022, Annexure P-1, passed by the learned Additional Civil Judge (Senior Division), Dabwali, Sirsa.

2. Counsel for the petitioner-plaintiff submits that the petitioner had instituted a suit for possession by way of specific performance of agreement dated 30.10.2012 and the respondent-defendant was proceeded against ex-parte. After trial, suit was accepted by judgment and decree dated 28.03.2014, Annexure P-2. Respondent, preferred an appeal, before the learned Additional District Judge, Sirsa along with an application dated 20.10.2016, Annexure P-3, for condonation of delay. By judgment dated 21.01.2022, Annexure P-4,

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appeal was accepted, judgment and decree passed by the Trial Court was set aside and the matter was remitted to the Trial Court for decision afresh after affording due opportunities to the respondent to file written statement and lead his evidence. Counsel states that the parties were directed to appear before the Trial Court on 01.02.2022, but as the file had not been received from the appellate court, petitioner's presence was not marked. Counsel asserts that the petitioner challenged the judgment, Annexure P-4, by filing an appeal before this Court for which purpose, he came to Chandigarh to engage a counsel and could not follow up the proceedings before the Trial Court. It is the stand of the petitioner that when inquiries were made, he came to know that the civil suit had been dismissed in default by order passed on 11.02.2022, Annexure P-5, and after obtaining the certified copy of the order, an application for restoration was instituted, which has been rejected vide order under challenge herein.

3. Despite notice and service, respondent is unrepresented.
4. This Court has heard the counsel for the petitioner and has examined the paper-book with his assistance.
5. The suit filed by the petitioner was dismissed in default on 11.02.2022. Petitioner applied for the certified copy of the order on 10.03.2022, which was delivered on 11.03.2022 and he filed an application for restoration of the suit on 12.03.2022. After excluding the period spent on obtaining the certified copy, application for restoration had been moved within the prescribed period of 30 days. The Trial Court has erred in calculating the limitation period and in rejecting the application. Consequently, the impugned order cannot be sustained. This Court has examined the application, Annexure

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P-6, and is satisfied with the reasons given by the petitioner for default in appearance before the Trial Court. This Court is of the view that the civil suit deserves to be restored and decided on merits.

6. For the foregoing reasons, impugned order is set aside. Application for restoration of the civil suit is accepted and the civil suit is restored to its original number. Parties are directed to appear before the Trial Court on 11.03.2025 for further proceedings in accordance with law.

7. Revision Petition is disposed off.

(SUVIR SEHGAL)
JUDGE

08.01.2025

Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No