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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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Date of decision: 15.09.2025

Zorawar Singh & Another**...Appellant(s)****Vs.****Ch. Shamsheer Singh & Others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA****Present:- Mr. Gourav Goel, Advocate for the appellants.***********NIDHI GUPTA, J.**

Present second appeal has been filed by plaintiffs against the concurrent judgments and decrees of the learned Courts below whereby suit of the appellants for declaration along with alternative relief of possession, mesne profits and permanent injunction, has been dismissed.

2. Ld. Counsel for the appellants/plaintiffs submits that on the date of alleged Agreement to Sell, General Power of Attorney, Will, and Affidavit, the appellant No.1 was a minor. However, the respondents had mala fide intentions and had got registered the Sale Deed No.1192 dated 17.02.2000 in their favour in the year 2000 and did not get the mutation sanctioned in their names so that they could fool the appellants by showing

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the Jamabandi in the name of the appellants. It is submitted that the said Sale Deed No.1192 dated 17.02.2000 has no effect on the rights of the appellants and the same is required to be set aside as it has been got registered by respondent No.1 without any right to sell the suit property in favour of respondents No.2 to 6. It is submitted that respondent No.1 has got registered the Sale Deed on the basis of said GPA executed in his favour on 14.09.1999 by the appellants. However, on the said date i.e. 14.09.1999, the appellant No.1 was minor and could not have executed any GPA. Neither could the appellant No.1 have entered into any Agreement to Sell. It is submitted that it is only in the first week of January 2008 when the appellant No.2 went to the office of Halqa Patwari to receive the certified copies of the Jamabandi qua the suit property that he discovered all the above-said facts. Thus, the respondents No.2 to 6 have illegally, wrongly and forcefully taken possession of the suit property from the appellants in June 2013 for which they have no right, title or interest whatsoever. The said respondents are also liable to pay mesne profits of Rs.1,50,000/- to the appellants. However, the learned Courts below have wrongly nonsuited the appellants.

3. Learned counsel for the appellants submits that while passing the impugned order dated 31.01.2024, the learned Additional District Judge has not applied the judicial mind and passed the impugned order in haste

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manner. The suit of the appellants was dismissed in default and then the appellants filed the application for restoration but that was again dismissed in default. The appellants are not at fault anywhere; the appellants engaged the counsel and filed the application and then appeal. The appellants are not the technical person and does not know about the provisions of law. They had engaged counsel and filed case before the Court through their counsel, but the counsel had not appeared before the Court, and the case is dismissed then appellants should not suffer for the fault of the counsel. It is accordingly prayed that the impugned judgments and decrees/orders be set aside.

4. Heard.

5. The appellants had filed the present suit on dated 25.11.2010 seeking declaration that the plaintiffs are co-owners of the suit property in 1/10th share;**and** also seeking declaration that the GPA bearing registration No.947 dated 14.09.1999; **and** the Sale Deed No.1192 dated 17.02.2000; **and** the mutation No.824 dated 23.01.2008 are illegal, null and void;**and** also seeking possession and permanent injunction. The suit was dismissed in default vide order dated 13.07.2016. The appellants had then filed an application dated 19.07.2016 (Annexure P2) for restoration of the suit; which was also dismissed in default vide order dated 15.04.2017 (Annexure P3). Thereafter, the appellants had filed application dated 21.07.2017 for



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setting aside order dated 15.04.2017, which has been dismissed by the learned Civil Judge, Kharar vide order dated 18.05.2018 (Annexure P4).

6. The reasoning of the learned Civil Judge (Junior Division), Kharar in Para 4 of order dated 18.05.2018 (Annexure P4) is as follows:-

*"4. Heard. After perusing the judicial file carefully, it has come to the notice of the Court that earlier also, an application for restoration has been filed by the applicant Zorawar Singh on 19.07.2016 and the same was dismissed in default on 15.04.2017 and now again, the applicants/plaintiffs has filed the application for restoration of the restoration application which was dismissed on 15.04.2017 on the ground that his counsel did not inform him about the date of appearance and therefore, his non appearance is not intentional or willful. Plaintiff has also relied upon the judgment **Kanshi Ram Vs. Haryana State** & Ors. in CR No.1108 of 1981 dated 03.03.2004, passed by the Hon'ble Punjab and Haryana High Court in which it is held that "Dismissal in default as counsel for the party not appearing on the date of hearing-suit restored- party cannot be made to suffer for the fault of his counsel." Whereas, on the other hand, the learned counsel for the respondent averred that the present application is not maintainable in the present form and therefore the same may kindly be dismissed. After hearing the learned counsels for both the parties, the court has come to the conclusion that there is no such provision for restoration of the restoration application which was dismissed on 15.04.2017. Rather, the proper remedy available to the applicant is to file an appeal or revision before the higher Court*

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and therefore, the present application is not maintainable in the present form and the judgment upon which the applicant relied upon does not apply to the fact of the present application. Accordingly, the present application stands dismissed being devoid of any merits in it.”

7. The appellants had then challenged the above order dated 18.05.2018 (Annexure P4) before the learned Additional District Judge, Mohali by way of Civil Appeal. However, the same has also been dismissed by the learned Additional District Judge vide judgment dated 31.01.2024, holding that the same was not maintainable. The order dated 31.1.2024 was then challenged by the appellant before this Court by way of CR-4675-2025 which has also been dismissed vide order dated 24.10.2024 (Annexure P-5).

8. The explanation furnished by the appellants to the effect that they were not informed by their counsel, shows that the matter has been pursued with utmost casualness. It is the bounden duty of every litigant to pursue his case diligently. Rights of the parties get crystallised over time. Thus, it is also the bounden duty of this Court to ensure that justice inures to both parties concerned. It is my view that grave injustice will be caused to the respondents in case the matter is restored at this belated stage. Hon'ble the Supreme Court in **Vasant Nature Cure Hospital & Pratibha Maternity Hospital Trust & Ors. Vs. Ukaji Ramaji-Since Deceased**



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Through His Legal heirs and another, Law Finder Doc ID #2315385 has held that no litigant should be permitted to be so lethargic and apathetic, much less should be permitted to misuse process of law - Therefore, order of High court allowing vexatious miscellaneous civil application seeking restoration of earlier miscellaneous application without assigning any reason was erroneous and was set aside. Further, Hon'ble the Supreme Court in **Rajnesh Kumar & another vs. Ved Prakash, Law Find Doc ID #2666760** has held the following:-

“10. It appears that the entire blame has been thrown on the head of the advocate who was appearing for the petitioners in the trial Court. we have noticed over a period of time a tendency on the part of the litigants to blame their lawyers of negligence and carelessness in attending the proceedings before the Court. Even if we assume for a moment that the concerned lawyer was careless or negligent, this, by itself, cannot be a ground to condone long and in-ordinate delay as the litigant owes a duty to be vigilant of his own rights and is expected to be equally vigilant about the judicial proceedings pending in the Court initiated at his instance. The litigant, therefore, should not be permitted to throw the entire blame on the head of the advocate and thereby disown him at any time and seek relief.”



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Delhi High Court has also been recently held in case of **Moddus Media Pvt. Ltd. vs. M/s. Scone Exhibition Pvt. Ltd., (Delhi)**, Law Finder Doc Id # 887148, that:

“11.The litigant owes a duty to be vigilant of his rights and is also expected to be equally vigilant about the judicial proceedings pending in the court of law against him or initiated at his instance. The litigant cannot be permitted to cast the entire blame on the Advocate. It appears that the blame is being attributed on the Advocate with a view to get the delay condoned and avoid the decree. After filing the civil suit or written statement, the litigant cannot go off to sleep and wake up from a deep slumber after passing a long time as if the court is storage of the suits filed by such negligent litigants. Putting the entire blame upon the advocate and trying to make it out as if they were totally unaware of the nature or significance of the proceedings is a theory put forth by the appellant/applicant/defendant company, which cannot be accepted and ought not to have been accepted. The appellant is not a simple or rustic illiterate person but a Private Limited Company managed by educated businessmen, who know very well where their interest lies. The litigant is to be vigilant and pursue his case diligently on all the hearings. If the litigant does not appear in the court and leaves the case at the mercy of his counsel without caring as to what different frivolous pleas/defences being taken by his counsel for adjournments is bound to suffer. If the litigant does not turn up to obtain the copies of judgment and orders of the court so as to find out



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what orders are passed by the court is liable to bear the consequences.”

9. I am in complete agreement with the above view expressed by the Delhi High Court. In the present case, as already noticed above, the reason given by the appellants for recurrent dismissal of their proceedings is by placing the entire blame upon their counsel, which is not sufficient cause

10. In view of the above, I find no ground is made out to interfere in the impugned orders. Present appeal accordingly stands **dismissed**.

11. Pending application(s) if any also stand(s) disposed of.

15.09.2025
Sunena

(Nidhi Gupta)
Judge

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