



CR-2593-2026

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

CR-2593-2026 (O&M)**Date of decision : 19.05.2026**

Ram Nath and others

...Petitioners

Versus

Kamla Rani and others

...Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Abhay Pratap Singh Chauhan, Advocate,
for the petitioners.

HARPREET KAUR JEEWAN, J.

1. Civil Revision Petition under Article 227 of the Constitution has been filed impugning the order dated 03.02.2026 (Annexure P-1), passed by the Civil Judge, Junior Division, Ambala (*for short, 'the trial Court'*), allowing the application of the plaintiff-respondents for restoration of the civil suit which was dismissed in default.

2. The relevant facts in brief are that respondent Nos.1 to 3 filed suit against the petitioner and proforma respondents for possession by way of partition by metes & bounds regarding a property situated in Ambala City. The relief of interim injunction was also sought. The petitioner moved an application under Order VII Rule 11 of the Code of Civil Procedure, 1908 (*for short, 'the CPC'*), for rejection of the plaint, which was pending for 04.10.2023 for filing reply to the said application. On that day, the suit was dismissed in default due to non-appearance of the plaintiff/respondent Nos.1 to 3. On 22.12.2023, the plaintiff-respondents moved an application for restoration of the case,



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which was allowed by passing the impugned order dated 03.02.2026 by the trial Court.

3. Learned counsel for the petitioner contends that the suit was dismissed in default on 04.10.2023; the application for restoration ought to have been dismissed on the ground of delay having been filed way beyond the period of limitation. It is contended that the trial Court ignored the provisions of Article 122 of the Schedule for Periods of Limitation prescribed under the Limitation Act, 1963 (*for short, 'the Act of 1963'*), which provides the period of limitation as 30 days and the starting point for limitation is the date of dismissal of the suit and not the date of knowledge, as such the trial Court erred in passing the impugned order.

4. Mr. Omkar Chauhan, Advocate has filed *Vakalatnama* on behalf of respondent Nos.1 to 3, in the Court today, which is taken on record.

5. Respondent No.4 is proforma respondent. Consequently, service of notice to respondent No.4 is dispensed with.

6. I have heard the aforesaid submissions and perused the paper-book.

7. It is not disputed that the suit was dismissed in default, whereas the application for restoration was moved after 30 days of the said order. The trial Court has observed that the limitation period starts from 20.12.2023, i.e. the date of knowledge of the dismissal of the suit. The technicalities of the procedure shall not come in the way of delivering substantial justice. The case is at the preliminary stage and even the issues have not been framed. The application has been



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allowed subject to payment of costs of Rs.3,000/- to be deposited with the District Legal Services Authority, Ambala.

8. I find no error in the impugned order. The civil suit was filed for possession by way of partition of the suit property. The ownership rights of the respondent-plaintiffs are involved. The rights of the parties cannot be scuttled on account of technicalities. In the application submitted before the trial Court (Annexure P-2), the respondents have categorically alleged that when contacted, their counsel had informed that the application under Order VII Rule 11 CPC has been filed and he would intimate the applicants as and when required. Subsequently, son of the respondent-plaintiffs approached the counsel, but he was not available in his office. It has been specifically pleaded that the plaintiffs are old-age widow women and their absence is not intentional.

9. Section 5 of the Act of 1963 prescribes that any application may be admitted after the prescribed period of limitation, if the applicant satisfies the Court that he had sufficient cause for not making such application within such prescribed period. Although no specific application under Section 5 of the Act of 1963 has been filed, but the respondent-plaintiffs have described substantial reasons for not approaching the Court within prescribed 30 days. In such circumstances, the respondent-plaintiffs could not have been ousted from the Court on account of non-filing of such application.

10. Keeping in view the subject matter of litigation and the fact that the matter was at the initial stage when it was dismissed for want of prosecution, I find no illegality or impropriety in the order



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impugned, passed by the trial Court for restoring the suit to its original number.

11. Consequently, present petition has no merits and is accordingly dismissed.

12. Pending miscellaneous applications, if any, shall stand disposed of.

19.05.2026

[HARPREET KAUR JEEWAN]
JUDGE

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Whether speaking / reasoned :
Whether Reportable :

Yes	No
Yes	No