



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-16297-2026

Date of decision:-27.05.2026

Mrs. Roohi Thakur

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL
HON' BLE MR. JUSTICE VIKAS SURI

Present :- Mr. Ivan Singh Khosa, Advocate
for the petitioner.

Mr. Deepak Bhardwaj, Addl. A.G., Haryana.

Mr. Randeep S. Rai, Senior Advocate with
Ms. Radhika Mehta, Advocate
for respondent No.5.

SUVIR SEHGAL, J.(ORAL)

1. Petitioner has approached this Court by way of present writ petition, inter alia, for setting aside order dated 11.02.2025, Annexure P-3, passed by respondent No.2 whereby an appeal filed by her under Section 19 of Haryana Development and Regulation of Urban Areas Act, 1975, (for short, 'the 1975 Act'), has been dismissed in default.

2. On an advance notice, Ms. Radhika Mehta, Advocate, who is assisting Mr. Randeep S.Rai, Senior Advocate has put in appearance on behalf of private respondent No.5. Mr. Rai has placed reliance upon the judgment of Apex Court in New India Assurance Company Limited vs. R.Srinivasan,



134

(2000) 3 SCC 242, and has referred to paragraph No.18 whereof, which is reproduced hereunder:-

“18. We only intend to invoke the spirit of the principle behind the above dictum in support of our view that every court or judicial body or authority, which has a duty to decide a lis between two parties, inherently possesses the power to dismiss a case in default. Where a case is called up for hearing and the party is not present, the court or the judicial or quasi-judicial body is under no obligation to keep the matter pending before it or to pursue the matter on behalf of the complainant who had instituted the proceedings. That is not the function of the court or, for that matter, of judicial or quasi-judicial body. In the absence of the complainant, therefore, the court will be well within its jurisdiction to dismiss the complaint for non-prosecution. So also, it would have the inherent power and jurisdiction to restore the complaint on good cause being shown for the non-appearance of the complainant.”

3. It is the assertion of Mr. Rai that impugned order was passed on 11.02.2025 and there is no explanation as to why petitioner failed to approach respondent No.2 within a reasonable time for restoration of the appeal. It is his stand that petitioner has rather failed to explain the delay in the filing of present writ petition also.

4. On the other hand, counsel for the petitioner has placed reliance upon the judgment of Hon’ble Supreme Court in **Robin Thapa vs. Rohit Dora, (2019) 7 SCC 359**, to contend that ordinarily litigation should be adjudicated on merits and contentions of the parties should be considered. Counsel submits that litigation should not be terminated on default of either of the parties.

5. It is true that a lis has to be determined on merits and rival claims of the parties have to be decided. However, in the eventuality of non-



134

appearance of one of the parties, Court or judicial authority is left with limited option. In such a situation, matter has to be proceeded ex parte against defaulting party or it has to be dismissed for non-prosecution.

6. The question is as to what is the remedy available to the defaulting party. In view of the observations of the Hon’ble Supreme Court in *New India Assurance Company Limited’s* case (supra), such a party has to approach the Court or judicial authority concerned at the first instance.

7. In view thereof, writ petition before this Court is not maintainable and is dismissed as such. Liberty is granted to the petitioner to move an appropriate application before the appellate authority for recall of impugned order. In case, such an application is filed within a period of 30 days from today, appellate authority shall decide the same as expeditiously as possible.

(SUVIR SEHGAL)
JUDGE

(VIKAS SURI)
JUDGE

27.05.2026
Brij

Whether speaking/reasoned:	Yes/No
Whether Reportable :	Yes/No