

2026:PHHC:067139



148 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision-4324-2022 (O&M)
Decided on:-30.04.2026

Mohan Singh

....Petitioner..

vs.

Gurjit Singh

....Respondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Shiv Charan Bhola, Advocate for the petitioner.

Mr. Gaurav Datta, Advocate
for legal representatives of Mohan Singh (deceased).

Mr. Arun Sharma, Advocate for the respondent.

HARKESH MANUJA J. (Oral)

1. By way of present revision petition, challenge has been laid to an order dated 04.08.2022 passed by the learned District Judge, Fatehgarh Sahib, whereby an application seeking restoration of the first appeal preferred at the instance of petitioner-defendant, was dismissed.

2. Briefly stating, based on an agreement to sell dated 27.07.2006 with respect to 11 kanals of land forming part of the revenue estate of Village Sadhugarh, Tehsil & District Fatehgarh Sahib, the respondent-plaintiff filed a suit for possession by way of specific performance, which was decreed by the learned Trial Court vide judgment and decree dated 26.10.2016. Aggrieved thereof, the petitioner-defendant preferred first appeal bearing Civil Appeal No.33 of 2017, titled as **“Mohan Singh vs.**

Gurjit Singh” before the Court of learned District Judge, Fatehgarh Sahib

and the said appeal was dismissed in default on 22.08.2019 for non-appearance of the petitioner-defendant. Later, an application dated 25.03.2021 came to be filed for restoration of the said appeal with the following averments:-

“XX XX XX

3. *That on the date of hearing the previous counsel of the appellant was out of station and the appellant also busy in his domestic work, due to this reason the appellant and as well as his counsel could not appear in this Hon'ble court when the said appeal was called. Due to this reason the Hon'ble court dismissed in default the said appeal.*

4. *That non appearance of the appellant and his counsel was not intentional but due to facts mentioned above.*

5. *That now a day before yesterday, the appellant came to know the proceedings of the appeal and contacted his counsel who disclosed that the appeal has been dismissed in default on 22.8.2019, then the appellant engaged another counsel and applied for certified copy of the order. Hence this application is being filed within limitation from the date of knowledge of order of dismissal.”*

2.1 The prayer made in the aforesaid application was opposed at the instance of respondent-plaintiff. The learned District Judge, Fatehgarh Sahib vide order dated 04.08.2022, declined the prayer made on behalf of the petitioner-defendant, while rejecting the application for restoration of the appeal.

3. Impugning the aforesaid order, the present revision has been preferred.

4. I have heard learned counsel for the parties and gone through the paper book.

5. Though, from a perusal of the contents of the application filed for restoration of the appeal, *prima facie*, no reasonable/sufficient cause appears to have been made out for non-appearance of the petitioner-defendant or his counsel before the First Appellate Court on 22.08.2019, however, considering the fact that the substantial rights of the petitioner-defendant are involved in the first appeal; wholly in the interest of justice and to afford an effective opportunity to the petitioner-defendant to contest his appeal, the impugned order needs to be set aside.

6. In view of the aforesaid, present petition is allowed and the order dated 04.08.2022 passed by the learned District Judge, Fatehgarh Sahib, is hereby set aside. The learned First Appellate Court is requested to afford another opportunity to the petitioner-defendant to file an additional affidavit explaining the circumstances under which he failed to appear on 22.08.2019. He shall also be permitted to explain the delay in filing the application for restoration of the appeal.

6.1 The aforesaid order shall, however, be subject to payment of costs of Rs. 50,000/- to the respondent for having delayed the proceedings, before the learned First Appellate Court on account of his non-appearance on the date fixed. The parties are directed to appear before the learned First Appellate Court on 18.05.2026, and in the event the Court is satisfied with the reasons stated in the application, the same shall be dealt with afresh on merits.

7. Pending applications, if any, also stand disposed of.

30.04.2026
sonika

(HARKESH MANUJA)
JUDGE