



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

116

CR-3241-2025 (O&M)

Date of Decision: 27.05.2025

JASWINDER KAUR

.....PETITIONER

Vs.

CHHOTI DEVI AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: Mr. Amit Dhanda, Advocate for the petitioner.

DEEPAK GUPTA, J. (ORAL)

Petitioner herein was the plaintiff before learned Civil Judge (Jr. Division) Ambala in Civil Suit bearing *CS/1958/2018* titled as *Jaswinder Kaur Vs. Chhoti Devi and Others*. Suit was dismissed in default vide order dated 02.02.2023 (*Annexure P-2*). The application moved for restoration was dismissed by the trial Court vide order dated 05.03.2025 (*Annexure P-6*). Both these orders have now been assailed by the plaintiff of the case.

2. It is contended by learned counsel that petitioner-plaintiff had engaged Sh. Balbir Singh Kashyap, Advocate to pursue her case and who had assured her not to worry as she was not required to appear on each and every date of hearing and that he shall inform her as and when her presence is required. When plaintiff did not get any information regarding proceedings of the case, she came to Ambala to enquire about her case, but came to know that her counsel had already expired and her case has been dismissed. She then engaged the new counsel.

3. To fortify the contentions, learned counsel has drawn attention towards the various zimni orders, passed by the trial Court right from 27.04.2022 onwards, which would indicate that Court notice had been directed to be issued to the plaintiff-petitioner. On none of the dates, notice was received to have been served upon the plaintiff-petitioner. All of



sudden on 02.02.2023, after noticing that it was the duty of the plaintiff to pursue the case and that she had not appeared, the suit was dismissed in default. Learned counsel contends that in these circumstances, the application for restoration deserves to be accepted and application for condonation of delay should have been condoned.

4. The orders passed by the trial Court on different dates, support the contention of learned counsel for the petitioner. In case plaintiff's counsel had not expired, there was no requirement to send notice to her. Notice was directed to be sent to the plaintiff, but it was never served and therefore, the trial Court was not justified in dismissing the suit in default on 02.02.2023. The Court should have taken into consideration all these aspects before dismissing the application for restoration by way of the impugned order dated 05.03.2025 (*Annexure P-6*).

5. Having considered the aforesaid facts and circumstances, the present petition is hereby accepted, subject to ₹10,000/- as costs payable to the contesting respondents. The orders dated 02.02.2023 (*Annexure P-2*) and 05.03.2025 (*Annexure P-6*) are hereby set aside. Trial Court is directed to restore the case to its original number and proceed further with the trial thereof in accordance with law.

6. Since this order has been passed without issuing any notice to the respondents, lest it may delay the proceedings, respondents will be at liberty to approach this Court, in case they feel aggrieved.

7. Disposed of.

27.05.2025

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(DEEPAK GUPTA)
JUDGE

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