

2025:PHHC:030010



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

301

CR-1984-2022 (O&M)

Date of Decision : 03.03.2025

BRAHAM KUMAR AND ORS

.... Petitioners

VERSUS

THE PUNJAB STATE COOPERATIVE SUPPLY AND
MARKETING FEDERATION LTD

.... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rajesh Bhatheja, Advocate for the petitioners.

None for the respondent.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 16.04.2022 (Annexure P-5) passed by the learned Additional Civil Judge (Senior Division) Moga whereby the application filed by the plaintiff-respondent herein for restoration of the civil suit being CS/5414/2013 was allowed.

2. Brief facts relevant to the present *lis* are that the plaintiff-respondent filed a suit for recovery. The said suit was dismissed in default on 17.01.2017. Subsequently, an application for restoration was filed which was allowed vide impugned order dated 16.04.2022. The Trial Court while allowing the application noticed that the plaintiff-respondent had attached copy of the cause list dated 14.02.2017 which shows that on the said date the case was listed at serial No.14. It was also noticed that a perusal of the original file reveals that prior to 17.01.2017, the applicant (the plaintiff-

respondent herein) was regularly appearing in the matter. Aggrieved by the same, the present revision petition has been filed.

3. Learned counsel for the petitioners would contend that the application for restoration is dated 22.01.2017 however, the same was filed on 23.02.2017 and therefore there was a delay in filing the application. It is further contended that in the absence of any application for condonation of delay, the application for restoration ought to have been dismissed.

4. None has put in appearance on behalf of the plaintiff-respondent.

5. Heard.

6. In the present case, during the pendency of the suit on 14.01.2017 the case was fixed for cross-examination of the plaintiff's witnesses. On 17.01.2017, Mr Sunil Puri, District Manager and Mr. Varinder Kumar, S.O. of Markfed were present in Court for their cross-examination and the case was adjourned to 20.01.2017 and thereafter to 14.02.2017. On 14.02.2017 when the said witnesses came to Court for their evidence, the cause list showed the case as listed at serial No.14, a request was made to the Court to take up the matter so that the statements of the said witnesses could be recorded. The counsel was informed that the file had not been sent by the Ahlmad and it was thereafter informed that the case was dismissed in default on 17.01.2017. The application for restoration of the civil suit was allowed vide impugned order dated 16.04.2022. The argument raised by the learned counsel for the petitioners is that the application was prepared on 22.01.2017 but was filed on 23.02.2017 and hence the delay of almost one month was

required to be explained by the applicant and condoned by the Court concerned before allowing the application for restoration. Learned counsel has further contended that no application was filed for condonation of delay.

7. On a query by the Court as to whether the said objection was raised in the reply to the application or argued before the Trial Court, learned counsel candidly admitted that no such pleas were raised either in the application or argued before the Trial Court. Having not raised the pleas and objection in the reply or before the Trial Court, the said pleas and objection cannot be raised now before this Court. Even otherwise a perusal of the impugned order reveals that despite the case having been dismissed in default on 17.01.2017, the same was listed on 14.02.2017 at serial No.14. The cause list was also appended with the application which fact has also been noticed by the Court concerned in para No.4.

8. In view of the above, I do not find any merit in the present revision petition and the same being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

03.03.2025

Aman Jain

(ALKA SARIN)

JUDGE

*NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No*