



CR No. 6249 of 2025 (O&M)

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

**CR No. 6249 of 2025 (O&M)
DATE OF DECISION:08.09.2025**

AZAD SINGH & COMPANY AND ANOTHER

.....PETITIONERS

Vs.

M/S TRISHUL WOOD PRODUCTS PVT. LTD

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

**Present: Mr.Rajesh Lamba & Mr. Vinod Kumar, Advocates,
for the petitioners.**

AMARINDER SINGH GREWAL, J.

1. Prayer in the present Civil Revision Petition filed under Article 227 of the Constitution of India is for setting aside the impugned order dated 28.05.2025 (Annexure P-19), passed by the learned Additional District Judge, Chandigarh, whereby the appeal filed by the petitioners/defendants against the order dated 07.09.2022 (Annexure P-2), passed by the learned Civil Judge (Senior Division), Chandigarh, was dismissed, as the application (Annexure P-3) under Section 5 of the Limitation Act was dismissed for non-prosecution.

2. The brief facts of the case are that the respondent-plaintiff M/s Trishul Wood Products Pvt. Ltd. filed a suit bearing No. 575 dated 31.03.2018 for recovery of Rs. 1,22,81,442/- against the defendants-petitioners Azad Singh & Company and others.

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2.1 Upon notice, the defendants-petitioners appeared and filed their written statement. Thereupon, five issues were framed (including the issue of 'Relief'). However, on 24.01.2020, none appeared on behalf of the defendants and, as such, they were proceeded against *ex parte*. The plaintiff-respondent thereafter examined three witnesses and, after leading evidence, the suit was decreed vide judgment and decree dated 23.07.2021 (Annexure P-1), passed by the learned Civil Judge (Senior Division), Chandigarh.

2.2 Thereafter, an application under Order IX Rule 13 of the Code of Civil Procedure, 1908 (for short, 'the CPC'), for setting aside the *ex parte* order dated 24.01.2020 and the *ex parte* judgment and decree dated 23.07.2021 (Annexure P-1), was filed by the defendants-petitioners. Notice of the application was given to the plaintiff-respondent. After hearing the respective counsel, the learned Civil Judge (Senior Division), Chandigarh, dismissed the application under Order IX Rule 13 CPC vide order dated 07.09.2022 (Annexure P-2).

2.3 The defendants-petitioners thereafter filed an appeal (Annexure P-4) against the order dated 07.09.2022 (Annexure P-2) before the learned District Judge on 09.11.2022. Along with the appeal, an application (Annexure P-3) was also filed under Section 5 of the Limitation Act seeking condonation of delay of 26 days in filing the appeal. On 10.11.2022 (Annexure P-5), notice of the appeal was issued by the learned Additional District Judge, Chandigarh, to the plaintiff-respondent for 30.01.2023.

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2.4 The interim order dated 30.01.2023 (Annexure P-6) records that only a proxy counsel appeared on behalf of the appellants-defendants, while Sh. Amit Jindal, Advocate, appeared on behalf of the respondent-plaintiff and sought time to file his power of attorney and reply to the application for condonation of delay. The case was adjourned to 22.03.2023. On 22.03.2023 (Annexure P-7), Sh. Amit Jindal, Advocate, filed his power of attorney and reply to the application. However, the regular counsel did not appear for the appellants-defendants, and the matter was adjourned to 04.07.2023 for arguments.

2.5 On 04.07.2023 (Annexure P-8), the Presiding Officer was on leave, and the case was adjourned to 30.09.2023. On 30.09.2023 (Annexure P-9), again the regular counsel for the parties did not appear, and the case was adjourned to 14.12.2023. On 14.12.2023 (Annexure P-10), the proxy counsel for the respondent-plaintiff sought an adjournment on account of bar elections, and the matter was adjourned to 22.03.2024.

2.6 On 22.03.2024 (Annexure P-11), counsel for the appellants-defendants was again absent, and the case was adjourned to 15.07.2024. On 15.07.2024 (Annexure P-12), again none appeared for the appellants-defendants, and the matter was adjourned to 09.09.2024. On 09.09.2024 (Annexure P-13), counsel for the respondent-plaintiff was present, but none appeared for the appellants-defendants, and the matter was adjourned to 03.10.2024. On 03.10.2024 (Annexure P-14), on request of counsel for the appellants-defendants, the case was adjourned to 04.12.2024. On 04.12.2024 (Annexure P-15), on joint request, the matter was adjourned to 03.01.2025. On 03.01.2025 (Annexure P-16), again none appeared for the

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appellants-defendants, and the case was adjourned to 21.02.2025. On 21.02.2025 (Annexure P-17), again none appeared for the appellants-defendants, while counsel for the respondent-plaintiff was present, and the case was adjourned to 25.03.2025. On 25.03.2025 (Annexure P-18), again none appeared for the appellants-defendants, whereas counsel for the respondent-plaintiff was present, and in the interest of justice, the matter was adjourned to 28.05.2025.

2.7 On 28.05.2025 (Annexure P-19), the order under challenge, the matter was taken up twice by the learned Additional District Judge, Chandigarh. When the case was called before lunch at 12:30 p.m., none appeared for the appellants-defendants, and the case was passed over to be taken up after lunch. However, even at 04:20 p.m., none had appeared for the appellants-defendants, and accordingly, the application under Section 5 of the Limitation Act and the appeal were dismissed in default for non-prosecution.

3. Learned counsel for the petitioners-defendants has only submitted that the petitioners may be given one opportunity for filing the written statement before the learned lower court, as earlier their counsel could not appear on time.

4. I have heard learned counsel for the petitioners and perused the paper-book.

5. In view of the order proposed to be passed, notice is not being issued to the respondent, as it would delay the proceedings besides entailing additional expense to the respondent.

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6. Keeping in view the above facts and circumstances, this Court finds that repeated opportunities were afforded to the petitioners-defendants to argue the application under Section 5 of the Limitation Act before the learned Additional District Judge. However, their conduct shows that they kept lingering the matter on one pretext or the other, and ultimately, on 28.05.2025 (Annexure P-19), even after the case was taken up twice in a single day, none appeared on their behalf.

7. As noticed, on earlier occasions also, their counsel consistently failed to appear. Since no sufficient cause has been shown for setting aside the order dated 28.05.2025 (Annexure P-19), this Court finds that the learned Additional District Judge, Chandigarh, was fully justified in dismissing the appeal for non-prosecution.

8. Accordingly, finding no illegality in the order dated 28.05.2025 (Annexure P-19), the present revision petition, being devoid of merit, is dismissed.

9. Pending miscellaneous application(s), if any, shall also stand disposed of.

September 08, 2025
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(AMARINDER SINGH GREWAL)
JUDGE

Whether Speaking	Yes
Whether Reportable	No