



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

**CR-5007-2025(O&M)
Date of Decision: July 31, 2025**

Rajan Thakur

...Petitioner

Versus

Rakesh Kumar through his LRs

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Angad Parmar, Advocate
for the petitioner.

ARCHANA PURI, J.

Challenge in the present revision petition is to the order dated 29.05.2025 passed by learned lower Appellate Court, whereby, an application filed for restoration of the civil appeal No.45-2020, which was dismissed in default vide order dated 29.07.2023, for want of prosecution, was allowed.

It is submitted by learned counsel for the petitioner that petitioner had filed a Civil Suit No.149 dated 29.11.2016, for specific performance and the same was decreed, in his favour, vide judgment dated 20.01.2020. Copy of the said judgment is Annexure P-3. However, being aggrieved by the decretal of the suit, respondent No.1-Rakesh Kumar had filed an appeal before learned lower Appellate Court. During the pendency,



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the appeal was dismissed for want of prosecution vide order dated 29.07.2023, copy whereof is Annexure P-7 and thereafter, application was filed for seeking restoration of the appeal and the said application was filed on 22.02.2024.

Reply was filed to the said application, thereby, resisting the claim for restoration of the appeal. However, vide impugned order dated 29.05.2025, after hearing the parties, the same was allowed.

It is submitted by learned counsel for the petitioner that there is inordinate delay in filing of the application for restoration of the appeal, which does not stand explained.

Perusal of the impugned order reveals that learned lower Appellate Court has taken into consideration the date of dismissal of the appeal and further, had also referred to the various constrained circumstances, spelt in the application about the ill-health of Rakesh Kumar, on account of liver disease from his addiction to liquor and also, it has been observed that he is suffering from liver disease for more than two years and was admitted in DMC, Ludhiana as well as AIMS, Bathinda. Furthermore, also it has been observed that the applicants (legal heirs of respondent Rakesh Kumar) were not aware of any agreement or filing of the suit or appeal or the dismissal of the appeal. It was on 12.02.2024, when some Court employee came for service of summons upon deceased Rakesh Kumar of a case, which was fixed for 13.02.2024, then on 15.02.2024, the applicants came to know about the counsel and consulted him and came to know about the dismissal of the appeal.

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On query by the Court, it is submitted by learned counsel for the petitioner that aforesaid summons related to the service to be effected upon the respondent, in pending execution.

Furthermore, the application for restoration was filed on 23.02.2024 i.e. after a delay of about 8 months. It was observed by learned lower Appellate Court, in the impugned order itself, about death of Rakesh Kumar, who was suffering from liver disease.

Considering the same and also taking into consideration the medical record and discussing the same in detail, learned lower Appellate Court had concluded about Rakesh Kumar to be suffering from various medical ailments and in these circumstances, it was observed that applicants (legal heirs) must not be aware of any litigation by or against him. It was only after death of Rakesh Kumar, the application was filed.

The reason, as such, is most bonafide, which cannot be overlooked, in the backdrop of the medical evidence, brought on record, at the instance of the respondent. The reason, as spelt out from the impugned order, in any manner, cannot be said to be not 'sufficient' for restoration of the application.

Though, now it is submitted by counsel for the petitioner that no application, as such, for condonation of delay was filed along with application for restoration, but however, the impugned order was passed, after hearing arguments of both the parties. The Court concerned has also taken into consideration the fact of delay, on account of medical grounds and therefore, had allowed the restoration of the appeal. In the light of the

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same, even if, no such separate application has been filed, but the Court concerned has considered the aspect of delay. It matters not much. Bonafide reason is coming forth, for the restoration of the appeal. Hence, the impugned orders warrants no interference.

Hence, the present revision petition sans merit and is hereby dismissed.

Anyhow, learned counsel for the petitioner submits that it was a suit for specific performance of the agreement to sell dated 08.05.2016 and since then, the petitioner is indulging in litigation. The appeal is also pending for almost five years. In the given circumstances, he sought time bound direction to be given to the Court concerned, to decide the appeal. However, it shall not appropriate to give time bound direction to the Court concerned. Keeping in view the age of the appeal, the Court concerned is requested to make an endeavour for expeditious disposal of the appeal, in accordance with law.

July 31, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No