

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2025:PHHC:045946



(122)

CR-1947-2023 (O&M)
Decided on : 03.04.2025

Jai Bharat (deceased) through LR

.....Petitioner

Versus

State of Haryana & others

.....Respondents

CORAM : HON'BLE MR.JUSTICE ANIL KSHETARPAL

Present: Dr.Deepak Jindal, Advocate, for the petitioner.

Ms.Vibha Tewari, AAG, Haryana.

ANIL KSHETARPAL, J. (Oral)

1. The petitioner herein filed a suit for declaration with consequential relief of permanent and mandatory injunction. In fact, multiple suits were filed by the plaintiff.

2. Two suits were being tried together and were being taken up on the same date of hearing. On 12.01.2018 (Annexure P-2), one suit was dismissed for want of prosecution whereas in the other suit, the proceedings continued. The plaintiff remained under impression that both the cases are continuing together. However, in April, 2018, counsel representing the plaintiff came to know that his Civil Suit No.100 of 04.02.2016 has been dismissed for non-prosecution. Hence, he filed application for restoration. Learned Trial Court vide order dated 11.10.2022 (Annexure P-1) dismissed the application on the ground that the petitioner had not filed application for condonation of delay.

3. Learned counsel representing the petitioner submit that though no particular application for condonation of delay was filed, however, the petitioner, while filing the application for restoration, disclosed the reasons for delay in filing the application. He submit that the Court was required to take a holistic view of the matter.

4. *Per contra*, learned State Counsel submit that the petitioner failed to file the application for condonation of delay and hence, the Court has correctly passed the order.

5. This Court has considered the submissions. In para no.2 of the application for restoration, the plaintiff has asserted as under:

“2. That the plaintiffs filed two different suits for declaration and for permanent and mandatory injunction. Most of the defendants are similar. Since long both the cases were fixed for the same date. Both these cases Jai Bharat etc. vs. State were fixed for 5-1-2018. Earlier to it both these cases were fixed for 5-1-2018 and were adjourned to 24-1-2018. On 24-1-2018, these cases were adjourned to 9-3-2018. On 20-4-2018, the counsel for the plaintiffs appeared in court at about 9.50 a.m. and the matter was adjourned for consideration for 6-7-2018. The counsel for the plaintiffs asked the Reader for giving the same date in this case. Then Reader told that this case was dismissed in a default, two/three dates back. The plaintiffs were shock to know it and thereafter on inquiry from record and from the Civil Ahalmad, came to know that this suit was dismissed in default on 12-1-2018. The plaintiffs/ applicants immediately moved an application for certified copy of the orders and got the copy of the order dated 12-1-2018 and came to know that this suit was dismissed in default on 12-1-

2018. This suit is not noted in the diary of the counsel for 12-1-2018 and both the cases were noted for 24-1-2018 on 5-1-2018. Both the matters were fixed for 5-1-2018 and as per the record of the counsel for the plaintiffs, both were adjourned for 24-1-2018 and not for 12-1-2018. The plaintiffs never knew that both the cases have been separated on 5-1-2018 and different dates have been given in both the cases. The version of the plaintiffs gets support from the cases diary of the counsel for the plaintiffs regularly maintained and both the envelopes, keeping record of both the cases. Photostat copy of the diary of 2017 and of 2018 upto 20-4-2018 is attached with this application. Likewise photostat copy of both the envelopes, showing the sequence of dates are attached with this application to give moral, legal and factual strength to this application.”

6. It is evident that the petitioner had disclosed the reasons for filing the application in the month of April, 2018. It is not necessary that a separate application for condonation of delay must be filed if the application for restoration discloses the reasons for condoning the delay. The Court cannot refuse to condone the delay on the ground that separate application has not been filed.

7. Hence, impugned order dated 11.10.2022 (Annexure P-1) is set aside, the suit filed by the plaintiff is restored to its original number.

8. The present revision petition is allowed in the above-said terms.

April 3, 2025
sailesh

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether Reportable :	Yes/No