



CR-4785-2024(O&M)

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

CR-4785-2024(O&M)

Date of decision: 20.03.2025

Raj Kumar

..Petitioner

Versus

Achhey Lal and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sherry K Singla Advocate
for the petitioner

Mr. Rohit Kumar Rana, Advocate
Mr. Naresh Paul Chandel, Advocate for respondent no.1 & 2

ANIL KSHETARPAL, JUDGE

1. The petitioner filed a suit for the grant of decree of declaration that he is entitled to 1/4th share in the house of Sheela Devi as per the Will dated 03.11.2015, which was dismissed for non-prosecution on 17.01.2023 as neither he nor his counsel appeared. He filed an application on 27.03.2023 for restoration of the case, which has been dismissed on the ground that the petitioner has not disclosed the date on which he came to know about the order dismissing the suit for non-prosecution. The application filed by the petitioner is bereft of necessary particulars, however, it was expected from the petitioner to make an averment with respect to the date when he gained knowledge of the order dismissing his suit for default. However, the case was at the initial stage. The dispute is with regard to the immovable property. If the suit is not restored, he will stand deprived of his right to adjudication with respect to the immovable property. The petitioner cannot be punished for shoddy drafting of the application by his lawyer.



CR-4785-2024(O&M)

2. It was the petitioner's first default, so the trial court should have taken a pragmatic view of the matter. Hence, the impugned order is set aside and the suit is restored to its original number, subject to payment of costs of Rs.5,000/- which shall be paid to the defendants by way of demand draft.

3. The revision petition stands allowed.

4. All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

20.03. 2025

rekha

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No