IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(227) **CR No. 715 of 2017 (O&M)**
Date of Decision: 26.09.2025

Manpreet Singh Bhullar **…Petitioner**

VS

Sarb Simrat Kaur Bhullar and another

…Respondents

AND

CR No. 716 of 2017(O&M)

Manpreet Singh Bhullar

…Petitioner

VS

Sarb Simrat Kaur Bhullar and another

…Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Saurav Bhatia, Advocate
Mr. Kuljinder Singh Billing, Advocate
for the petitioner (in both cases).

Mr. Atul Goyal, Advocate
for respondent No.1 (in both cases).

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VIKRAM AGGARWAL, J (ORAL)

1. By way of the instant judgment, this Court shall decide the afore-titled two revision petitions. The impugned orders in both revision petitions are of the same date. Parties and issues also being identical, both revision petitions are being decided by way of a common order. Facts shall primarily be derived from CR No. 715 of 2017, though reference to the facts of the other petition shall be made at the appropriate place.

2. The dispute is essentially between husband and wife. The petitioner (Manpreet Singh Bhullar) is at odds with his wife respondent No.1 (Sarb Simrat Kaur Bhullar). The dispute is with regard to one Booth No.70 situated at Village Sante Majra, Tehsil Kharar (the suit property in CR No.

715 of 2017) and one Plot No. 332, situated in Shivalik City, Kharar (the suit property in CR No. 716 of 2017). The said booth was purchased by way of sale deed dated 15.04.2008 by respondent No.1 from respondent No.2 (Darshan Singh). Similarly, the plot was purchased by way of sale deed dated 19.07.2007 by respondent No.1 from respondent No.2.

3. Two suits were instituted by the petitioner/plaintiff seeking declaration that he was owner of the said Booth and Plot and that the sale deeds in favour of his wife were null and void. In the alternative, recovery of ₹9,00,000/- and ₹13,25,000/- respectively, was sought.

4. The case set up in the suit (Annexure P-8 in CR No.716 of 2017) was that the payments had been made by the petitioner and that since he was employed with the Merchant Navy, the dealings were being undertaken by his wife. She, however, got the sale deed executed in her favour which, led to the filing of the suit.

5. The suit came to be dismissed in default vide order dated 26.03.2014 (Annexure P-4). An application for restoration (Annexure P-5) was filed along with an application under Section 5 of the Limitation Act, 1963 for condonation of delay of 70 days in filing the application for restoration. The said application for restoration was opposed by way of reply (Annexure P-6). The application was dismissed vide order dated 10.11.2014 (Annexure P-1) on the ground of limitation.

6. An appeal was preferred against the said order but the same was also dismissed vide order dated 22.08.2017 (Annexure P-2) leading to the filing of the instant revision petition.

7. I have heard learned counsel for the parties.

8. Learned counsel for petitioner(s) submits that both Courts have gravely erred in dismissing the application for restoration and thereafter, the appeal. He submits that it is well settled that parties should be heard on merits and should not be non-suited on technicalities. He submits that the petitioner could not have been left remediless. Learned counsel submits that both Courts took a hyper-technical view of the matter and erroneously non-suited the petitioner. In support of his contentions, learned counsel has placed reliance upon the judgments of this Court in ***Baldev Raj Vs. Harbans Singh @ Harward Singh, 2007(42) RCR (Civil) 930, Satnam Singh Vs. State of Punjab and others, CR No. 1199 of 2019, decided on 04.12.2019*** and ***Mahan Singh Vs. The Assistant Executive Engineer, Banur Division, Sub Division, PSPCL and others, 2020(4) RCR (Civil) 290***.

9. *Per contra*, learned counsel for the respondents submits that there is no illegality in the impugned orders. He submits that it was the duty of the petitioner to explain the delay satisfactorily. He further submits that condonation of delay and restoration are two separate issues and cannot be agitated by way of one revision petition. He submits that in any case, no interference is called for in the impugned order. In support of his contentions, he has placed reliance upon the judgment of the Hon'ble Supreme Court of India in ***C. Prabhakar Rao and another Vs. Sama Mahipal Reddy and another, 2025 (2) RCR (Civil) 105***.

10. I have considered the submissions made by learned counsel for the parties.

11. The suit was dismissed in default on 26.03.2014. The said order reads as under:-

> ***"The case has been called several times during the day. Neither the plaintiff nor the counsel appeared before the Court. It is already 3.30 P.M. now. Therefore, the case is ordered to be dismissed in default. The file be consigned to the record room."***

12. An application for restoration was filed stating that an appeal had been filed against vacation of injunction order and the applicant-plaintiff remained under the impression that when such an appeal is preferred, the file of the Lower Court goes to the Appellate Court. Under the circumstances, the suit was dismissed in default, but the petitioner did not come to know about it and only on 03.07.2014 when he went to the Court to check about another case which was pending for 10.07.2014, he came to know that the suit had been dismissed in default on 26.03.2014. A copy of the order was immediately obtained and the application was filed. It was averred that the absence of the plaintiff was not intentional but was on account of a misunderstanding. The said application was opposed by way of a reply. The trial Court dismissed the said application vide order dated 10.11.2014 with the following observations:-

> ***"Perusal of the file reveals that applicant has filed an application for condonation of delay under Section 5 of Limitation Act by stating that the applicant remained under the misconception that once the appeal is filed the main suit shall also go to appellate court. Firstly applicant failed to place on record any copy of appeal as alleged by him, any certified copy of the order passed by Ld. Appellate Court and also failed to give any details of the said appeal in order to substantiate his above averment. Mere assertion of the applicant that he has filed an appeal against the injunction order passed by the court of undersigned is not sufficient to prove his averment. Further in the opinion of this court the***

> ***ground taken by the applicant for condonation of delay that he remained under misconception that once appeal is filed the main suit shall also go to appellate court is not a valid ground for condoning the delay as it is in the knowledge of every ordinary prudent person that case goes to the appellate court only when the matter is finally adjudicated by the lower court and not on the interim order of the lower court. Then from the conduct of the applicant it appears that the applicant is misusing the process of law in order to drive undue advantage in his favour and is vitiating the process of law. Further perusal of the original file reveals that the case was fixed for evidence of the plaintiff when it was ordered to be dismissed in default on 26.03.2014 for non appearance of the plaintiff as well as his counsel. Article 122 of the Indian Limitation Act provides the limitation of 30 days for the restoration of the suit from the date of dismissal. The Article does not provide for any provision for filing the application for restoration of the suit from the date of knowledge. It only provides to file the application for restoration of the suit within 30 days only from the date of dismissal not from the date of knowledge. But the instant application for restoration of the suit was filed by the applicant on 05.07.2014 which means that the application was not filed within the limitation period i.e. 30 days as prescribed by law from the date of order of dismissal in default i.e. 26.03.2014.***"

13. The appeal filed against the said order was also dismissed vide order dated 22.08.2016 giving similar reasons.

14. In the considered opinion of this Court, both Courts erred in dismissing the application(s) for restoration. The instant revision petitions have been pending before this Court since 2017. The suits were dismissed in default on 26.03.2014 i.e., more than 11 years ago. The applications for restoration were dismissed on 05.07.2014 and even the appeals were

dismissed on 22.08.2016. Had the Courts taken a practical view and not a hyper-technical view, the trial, in all probability, would have been over by now.

15. It has to be borne in mind that sometimes pleadings in Muffasil Courts are not up to the mark. However, the Courts should see the larger picture. No doubt, no premium has to be given to a wrongdoer. However, where the delay is not inordinate, one should always take a pragmatic and a practical view in favour of condoning the delay. Even the conduct of the petitioner was not such which would have disentitled him from any relief. Being the plaintiff, there would have been no interest of the petitioner in delaying the matter. During the course of arguments, it had been stated that the suits are frivolous. Even if they are frivolous, they cannot be thrown out in this fashion and everyone deserves a fair trial.

16. That being so, the present revision petitions are allowed. The impugned orders are set aside. The applications for restoration are allowed and the suits are restored to their original numbers. This shall, however, be subject to payment of ₹15,000/- as costs to respondent No.1 (in each case).

Since the matter is already very old, the trial Court is requested to make sincere efforts to expeditiously decide the suit.

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

(VIKRAM AGGARWAL)
JUDGE

September 26, 2025
Rekha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No