

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

**CR-506-2025 (O&M)
Date of decision: 27.03.2025**

Bhupinder Singh and others

...Petitioners

Vs.

Mohinder Pal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Pawan Sharma, Advocate
for the petitioners.

Ms. Sumati Jund, Advocate
for respondents (through v.c.)

ANIL KSHETARPAL, J.

1. The plaintiff assails the correctness of the trial Court's order passed on 19.11.2024 while dismissing his application under Order IX Rule 9 of the Code of Civil Procedure, 1908 filed for restoration of the suit.

2. The plaintiffs filed a suit for grant of decree of declaration that they along with the *proforma* defendants are joint owners in possession of 05 bighas 10 biswas land on the basis of a registered Will dated 01.08.2005 and the sale deed dated 19.03.1989 is a result of fraud, which was played by Sh. Kartar Singh with a consequential relief of permanent injunction. The suit was filed in the year 2021. The defendants filed an application under Order VII Rule 11 of the Code of Civil Procedure, 1908 to reject the plaint, which was pending for reply of the plaintiff. The suit was dismissed for non-prosecution on 08.08.2022 as neither the plaintiff nor his counsel were present. An

application for restoration of the suit was filed on 03.01.2023 asserting that the plaintiff's counsel requested his Clerk to attend the office who assured that the case shall be attended. Thereafter, he went to his native village in Himachal Pradesh and the counsel remained under the impression that the case is still pending. When the counsel checked the status of the present case on internet on 02.01.2023, it transpired that the suit was dismissed in default. Hence, the application was contested by the defendant by filing a reply. The Trial Court found that the plaintiff has failed to disclose any sufficient cause for non-appearance. There is also no explanation for delay of nearly four months in filing the application. Consequently, the application was dismissed, against which, the present revision petition has been filed.

2. Heard the learned counsel representing the parties at length and with their able assistance perused the paper-book.

3. Learned counsel representing the petitioners contends that this Court should set aside the order in the interest of justice. It is submitted that the default was unintentional and due to inadvertent mistake.

4. *Per contra*, learned counsel representing the respondents has submitted that the plaintiff has failed to disclose any plausible cause for non-appearance. She submitted that the defendants are being harassed by keeping the litigation pending.

5. This Court has considered the submissions made by the learned counsel representing the parties.

6. An application filed by the plaintiff is annexed as Annexure P-2. From its perusal, it is evident that the plaintiff has failed to disclose any

sufficient cause for non-appearance. As already noticed, the plaintiff's counsel alleges that he instructed his Clerk to attend the office on 08.08.2022, who went to his native village in Himachal Pradesh. No steps have been taken by the counsel to check the status of the case, either on the internet or with his Clerk from 08.08.2022 till 02.01.2023. Neither an application for condonation of delay has been filed nor any explanation in the application has been given. Ordinarily, the Court avoids to dismiss the suits for non-prosecution, however, in this case, the plaintiff has failed to disclose sufficient cause for non-appearance.

7. Moreover, in exercise of revisional jurisdiction, the Court is required to examine the correctness of trial Court's impugned order. In this case, it has been found that the plaintiff neither disclosed sufficient cause nor furnished any explanation for delay. The conclusion drawn by the trial Court is not perverse.

8. Keeping in view the aforesaid facts, no ground to interfere is made out.

9. Hence, the revision petition is dismissed.

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

(ANIL KSHETARPAL)
JUDGE

27.03.2025

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