

BALBIR SINGH DHILLON VS HARVEL SINGH DHILLON etc.

Present: Sh. Amarjit Mall, Advocate, counsel for the applicant.
Respondents exparte.

Heard on the application filed for restoration of an application u/s 151 CPC dismissed in default on 03.01.2019, which was filed for restoration of the suit dismissed in default on 15.12.2017.

2. It is stated in the application that on 13.11.2018 notices were sent to the respondents through registered post were not received back and as per knowledge of the counsel for the applicants/plaintiffs said restoration application was adjourned to 04.01.2019 for awaiting appearance of respondents but on the said date i.e. 04.01.2019 counsel for the applicants came to know that in fact restoration application was fixed for 03.01.2019, on which date, same was dismissed in default. Even otherwise, on 03.01.2019 presence of applicants/plaintiffs was not necessary as the case was fixed for awaiting appearance of the respondents. Present application has been moved by the applicants without any delay. Lastly, prayed to allow the present application.

3. Heard and record perused.

4. The main premises of which, the present application has been filed by the applicants is that wrongly the adjournment date was noted as 04.01.2019 for awaiting appearance of the respondents. However, on 04.01.2019 counsel for the applicants came to know that application of restoration has already been dismissed in default for want of appearance of the applicants on 03.01.2019. Application is duly supported by an affidavit of Gurseb Singh, attorney of the applicants. Respondents have not put in appearance to file reply to the present application. Hence, being uncontested and unopposed, application stands allowed subject to payment of Rs. 500/- as costs to the deposited in District Legal Services Authority, Jalandhar. Application filed by the present applicants for restoration of the suit, which was dismissed in default on 15.12.2017 stands restored at its original number. The present application is ordered

to be tagged with the above mentioned application.

5. Perusal of the original application shows that it was dismissed in default on 03.01.2019 and prior to that it was fixed for appearance of the respondents. Let fresh notice to the respondents be issued for 17.01.2022.

Date of Order: 21.12.2021
*sunil shukla**

(Hirdejit Singh)
Additional Civil Judge (Senior Division)
UID No. PB0328