

CM No. 94 of 2022.

Sarabjit Singh vs. Shriram Transport Finance Company

Present: Sh.Jagtar Singh, Adv counsel for applicant/plaintiff.
Sh.R.K.Khipla, Adv counsel for respondent/defendant.

An application for restoration of the suit has been moved by learned counsel for plaintiff/applicant on the ground that on 18.10.2022, plaintiff and his counsel did not appear before the Court for filing reply to the application U/S 5 and 8 of the Arbitration and Conciliation Act and due to this reason vide order dated 18.10.2022, the learned Court has dismissed in default the the suit of the plaintiff. When the plaintiff inquired about the status of the case, he immediately without any delay has filed the present application. If said suit is not restored then the purpose of filing the present application will be frustrated and plaintiff shall suffer irreparable loss, which cannot be compensated in any manner or in terms of money. Hence the present application.

Upon notice, respondent/defendant appeared and filed written reply by averring therein that the present application is not maintainable in the present form and applicant has not come to the Court with clean hands. It is also submitted that the learned Court has dismissed the suit of the plaintiff after awaiting for a long time and when the plaintiff did not come present, resultantly the suit was ordered to be dismissed in default vide order dated 18.10.2022. The present application is being moved by the applicant just to waste the precious time of the Court as the applicant is very well aware that his suit was already barred by law as per Section 8 of the Arbitration and Conciliation Act. Proper opportunities were granted to the plaintiff/applicant during the pendency of the suit, but the plaintiff/applicant misused the process of law and prayed for dismissal of

2the application.

I have heard the learned counsel for both the parties and have perused the record very carefully with their able assistance.

Perusal of file shows that vide order of this Court dated 18.10.2022 main suit was dismissed in default u/o 9 rule 8 CPC on account of non appearance of plaintiff and thereafter on 19.10.2022, present application was filed for restoration of suit. Application is duly supported with the affidavit of applicant. Keeping in view the facts and circumstances, in case the said application is allowed, then no prejudice will be caused to the applicant. It is settled law that each and every petition, which has come before any court of law is to be decided on its merits to avoid multiplication of litigation and no one should be hanged unheard and in the interest of justice, one should be given a fair chance of being heard. As such, present application is hereby allowed, but however applicant is burdened with cost of Rs.500/- payable to respondent/defendant in order to compensate the delay caused on account of previous dismissal. Ahlmad is directed to restore the suit at its previous number.

Now, to come up on 25.05.2023 for payment of costs and filing reply to application U/S 5 and 8 of the Arbitration and Conciliation Act.

Dated: 08.05.2023

(Mamta Threja)
JW-I

(Harvinder Singh Sindhia)
Civil Judge(Sr.Divn.)
Sangrur.
Unique Identification No.PB0283