



2025:HHC:40702

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IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No. 29 of 2022

Decided on: 28.11.2025

Hakam Singh

... Petitioner

Versus

Aditya

... Respondent

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge.

Whether approved for reporting?¹

For the petitioner : Mr. Arvind Sharma, Advocate.

For the respondent : Mr. Y.P. Sood, Advocate.

Ajay Mohan Goel, Judge *[Oral]*

By way of this petition, the petitioner has challenged the order passed by the learned Appellate Court, in terms whereof, the learned Appellate Court has set aside the order passed by learned Trial Court passed in an application filed by the respondent herein under Order 9, Rule 9 of the Code of Civil Procedure, by allowing the application and restoring the civil suit.

2. It is not in dispute that the Civil Suit was dismissed in default on 27.6.2013 and the application seeking recall of the order was filed on 05.08.2013. The application was dismissed by the learned Trial Court on the ground that delay in filing the application was not satisfactorily explained, whereas the learned Appellate Court has set aside the findings returned by the learned Trial Court and

¹ Whether reporters of the local papers may be allowed to see the judgment?



allowed the application by restoring the civil suit.

3. Though, learned Counsel for the petitioner has vehemently argued that the order passed by the learned Appellate Court is not sustainable in the eyes of law as the respondent has not approached the Court with clean hands and this aspect of the matter was not correctly appreciated by the learned Appellate Court but this Court is of the considered view that as the case was dismissed in default on 27.06.2013 and the application was filed for restoration thereof on 05.08.2013, i.e. maximum after a month after the period of limitation for filing the application expired, this Court sees no reason to interfere with the order passed by the learned Appellate Court. Otherwise also, leaned Counsel for the respondent submits that as from the date of knowledge, the delay was only of 17-18 days.

4. Be that as it may, as this Court is of the considered view that delay otherwise was not so much so as to entail the consequence of non-restoration of the civil suit, the judgment under challenge is not interfered with but the same is modified to the extent that the restoration of the civil suit will be subject to payment of cost of Rs. 10000/- by the respondent/plaintiff herein to the petitioner/ defendant. The cost will be paid on the first date of appearance before the learned Trial Court. Pending miscellaneous



2025:HHC:40702

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

(Ajay Mohan Goel)
Judge

November 28, 2025
(*narender*)