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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR-1399-2025 (O&M)

Date of Decision: 14.05.2026

Manjeet Kaur

.....Petitioner

Vs.

Ashok Kumar

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present : Mr. Nikhil Chopra, Advocate,
Ms. Trishanjali Chopra, Advocate, and
Mr. Jatin Verma, Advocate,
for the petitioner.

Mr. Kulwant Singh, Advocate,
for the respondent.

SUDEEPTI SHARMA J. (ORAL)

1. The present petition has been preferred against the order dated 21.10.2024 passed by the learned Additional District Judge, Kaithal, whereby the appeal filed by the petitioner was dismissed in default.

2. Learned counsel for the petitioner contends that the counsel appearing on behalf of the petitioner before the Appellate Court could not appear only on 21.10.2024 and due to non-appearance, the appeal was ordered to be dismissed in default. He further contends that the absence on the part of the petitioner was neither intentional nor deliberate and the appeal was dismissed due to the fault of her counsel. He, therefore, prays that the present revision petition be allowed and one opportunity be granted to the petitioner to pursue her appeal.



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3. Per contra, learned counsel for the respondent submits that learned Additional District Judge, Kaithal, has rightly dismissed the appeal filed by the petitioner. He further contends that petitioner has remedy under Order 41 Rule 19 CPC for re-admission of appeal filed by the petitioner, which was dismissed in default. He, therefore, prays that the present petition be dismissed.

4. I have heard learned counsel for the parties and perused the case file with their able assistance.

5. A perusal of the case file shows that the counsel for the petitioner was appearing on each and every date except on 21.10.2024. The litigant should not suffer on account of fault of her counsel. A *lis* should be decided on merits rather on technicalities, therefore, justice demands that one last effective opportunity is required to be granted to the petitioner to appear before the Appellate Court to pursue her appeal.

6. So far as the contention of learned counsel for the respondent with respect to alternate remedy available with the petitioner is concerned, the same is though correct but the language used in Order 41 Rule 19 CPC shows that it is not mandatory provision. Further learned counsel of the petitioner contends that petitioner is a poor lady and she moved an application before the Appellate Court to pursue her appeal as an indigent person.

7. Therefore, in view of the facts and circumstances of this particular case and in the interest of justice, this Court deems it appropriate to grant one opportunity to the petitioner to pursue her appeal.



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8. In view of the above, the present revision petition is **allowed** and impugned order dated 21.10.2024 passed by learned Additional District Judge, Kaithal, is hereby set aside. The petitioner is granted one last effective opportunity to appear before the Appellate Court to pursue her appeal. The petitioner is directed to appear before the Appellate Court on 19.05.2026.

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

(SUDEEPTI SHARMA)
JUDGE

14.05.2026

Virender

Whether speaking/non-speaking : Yes/No

Whether reportable : Yes/No