
(1982) 07 P&H CK 0035
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 2021 of 1981

State Bank of Patiala

APPELLANT

Vs

Shri Hakan Singh and another

RESPONDENT

Date of Decision : 16-07-1982

Acts Referred:

Citation : (1982) 07 P&H CK 0035

Hon'ble Judges : Gokal Chand Mital, J

Bench : Single Bench

Advocate : Vijay Tewari, for the Appellant;

Final Decision : Allowed

Judgement

Gokal Chand Mital, J.—Despite several efforts to serve responded No. 1 and his district Court counsel, appearance has not been put in Respondent No 2 was served for 22-1-1982 but he did not appear despite service and ex-parte was ordered against him. Accordingly, I proceed to decide this revision petition ex-parte

2. The suit of the State Bank of Patiala was dismissed for default. An application for restoration of the suit was filed which was fixed for 54 1978. The counsel for the State Bank of Patiala could not appear when the application was called for hearing because he was busy in some other Court, and, therefore, the application for restoration was also dismissed in default. On 6.4.1978, an application was filed for restoration of the application for restoration of the suit Shri Vijay Tewari, Advocate, appeared as a witness in support of the application and stated that on 5. 4. 1978, he was busy in some other court, and his junior had to go out of Patiala and, therefore, the application was dismissed in default. The trial Court dismissed the said application on 11.6 19.81 because no grounds had been stated as to why the applicant himself could not appear in Court This is revision against the said order.

3. The applicant in this case was the State Bank of Patiala and it is not necessary

for the applicant to be present in Court on every date of hearing when an advocate has been engaged who is authorised to attend each hearing in the case. Shri Vijay Tewari, Advocate, was engaged by the State Bank of Patiala for attending all hearings and it was his duty to appear in Court to attend the hearing when the case was called on 5-4-1978. Shri Tewari's statement clearly goes to show that he was busy in the other Court due to which he could not appear for the hearing in this case. For the mistake, if and, of the counsel, the client cannot be penalised.

4. Before parting with the judgment, I cannot help observing that the application for restoration of the application for restoration of the suit was filed way back on 6.4.1978, on the very following day of the dismissal of the application and the trial Court took more than three years to decide this small matter. Shri Vijay Tewari, Advocate, appeared as a witness in that case on 5.5.1980 and thereafter also the Court took over a year to decide the matter. These small matters should normally be decided on the basis of affidavits and if a counsel is involved, on the statement made by him at the bar, instead of following long drawn procedure of three years as was adopted in this case. Such a practice has to be deprecated.

5. For the reasons recorded above, this revision petition is allowed; the order of the Court below dated 11.6.1981 is set aside and the application for restoration of the application for restoration of the suit is allowed and a direction is issued to the trial Court to expeditiously dispose of the application for restoration of the suit. While deciding the application for restoration of the suit, the trial Court will keep in view the guidelines laid down above. The petitioner, through his counsel, is directed to appear in the trial Court on 9-8-1982. The counsel for the petitioner is directed to issue registered A.D. notice to both the respondents and also to inform in writing Shri Lekh Raj Sanghi, Advocate, Patiala, who was counsel for respondent No. 1 in the trial Court. However, there will be no order as to costs