

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR No.5606 of 2015
Date of decision : 31.08.2015

Mengha Ram

...Petitioner

Versus

Estate Officer and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Vikas Jain, Advocate for the petitioner.

AMIT RAWAL, J. (Oral)

Learned counsel for the petitioner submits that appeal filed against the order passed under Public Premises Act, 1971 on 14.09.2012 and application for restoration of the said order was filed on 16.11.2012 as the counsel in the trial Court had noted the next date of hearing as 15.11.2012 instead of 14.09.2012. The Courts below have dismissed the application for want of material evidence i.e. diary and the photocopy of the brief of the counsel.

He further submits that application was accompanied by affidavit of the counsel who was pursuing the appeal. Even the counsel had also appeared in witness box & his evidence was sufficient for Courts below to recall the order dated 14.09.2012. In case the appeal is heard on merits, no

prejudice would be caused to the respondents as respondents in the appeal had been proceeded ex parte.

I have heard learned counsel for parties and appraised the paper book.

The facts noticed above are not in dispute. It is a matter of record that application for restoration of the appeal was accompanied by affidavit of counsel and counsel had appeared as witness. Court below rejected the application on the ground that diary and the brief of the counsel had not been proved, in support of averments made in application.

In my view the aforesaid findings are erroneous, much less, suffers from illegality for the reasons that application was accompanied by affidavit and the evidence of an advocate was/is sufficient for Court below, not to disbelieve the said statement. In case the appeal is decided on merits, in my view no prejudice will be caused to the respondents, as dismissed in default of appeal has rendered miscarriage of the justice to the petitioner.

In view of what has been observed above, impugned order dated 07.07.2015 (Annexure P-7) is set aside.

Application for restoration is allowed. Appeal is restored to its original number.

Parties through their counsel are directed to appear before Courts below.

Court below shall decide the appeal on merits in accordance with law.

Revision petition stands allowed.

31.08.2015

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(AMIT RAWAL)
JUDGE