

**(1983) 09 DEL CK 0038****Delhi High Court****Case No:** None

Deepak Khosla

APPELLANT

Vs

Ram Narain and Others

RESPONDENT

**Date of Decision:** Sept. 8, 1983**Citation:** (1984) 1 ACC 397**Hon'ble Judges:** N.N. Goswamy, J**Bench:** Single Bench**Judgement**

N.N. Goswami, J.

I have heard the learned Counsel for the parties at length. This Appeal has been filed against the order whereby the application for restoration of the case was dismissed.

2. The issues in the claim petition were framed in April, 1980. The case was adjourned for evidence to Sept. 80. The petitioner did not take any steps to summon the witnesses. Further opportunity was granted and case was adjourned to 8.10.1980. Again no steps were taken. The case was adjourned to 19.1.1981. The situation remained the same. A further opportunity was granted and case was adjourned to 20.4.1981 and then to 5.8.1981. The situation remained the same and the petitioner did not take any steps to summon his witnesses. Finally, the case came up before the tribunal on 25.9.1981. When it was dismissed for non-prosecution.

3. The application was filed at that stage for restoration of the case. By order dated 5.10.1981 the case was restored and was adjourned to 15.12.1981. Again the petitioner did not take any steps. The case was again adjourned to 1.3.1982. No steps were taken. Finally the case was adjourned to 10.5.1982. The situation remained the same. The case was again dismissed for non-prosecution.

4. Another application was filed for restoration on the ground that the petitioner remained away on business, from Delhi and his father was looking after the case.

The counsel could not contact his father and Therefore steps could not be taken. This plea did not find favor with the Tribunal and in my opinion rightly. It was the duty of the petitioner to atleast contact his counsel. In two years when the case was being adjourned from time to time for taking steps to summon the witnesses. In any case the petitioner and his father had contacted the counsel after the case was dismissed for default on 25.9.1981. The case was restored and no steps were taken in 8 months. There is no Explanation for this negligence. In this situation no fault can be found with impugned order and the appeal is dismissed in liming.