

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

Civil Revision No. 1458 of 2015 (O&M)

Date of decision : 3.3.2015

Harpal Singh

..... Petitioner

VS

Karnail Singh and others

..... Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Surinder Thakur, Advocate, for the petitioner.

Rajesh Bindal J.

Prayer in the present petition filed under Article 227 of the Constitution of India is for setting aside of order dated 28.11.2014 passed by the learned court below, vide which the evidence of the petitioner-plaintiffs has been closed by order.

For the view I am taking in the present petition, I do not deem it appropriate to issue notice to the respondents, as the same would unnecessarily delay not only the disposal of the present petition but the suit as well.

Learned counsel for the petitioner submitted that the suit was filed by the petitioner-plaintiff on 5.5.2012 for declaration. Despite service, some of the respondents-defendants did not appear. They were proceeded against ex-parte. The remaining respondents-defendants filed written statements. After completion of proceedings, issues were framed. Thereafter, the case was fixed for evidence of the petitioner. On 6.3.2014, the petitioner examined PW Jasbir Singh, Reader to Tehsildar, Hoshiarpur. However, as summoned record was not available with him, the matter was adjourned to 18.4.2014. On 18.4.2014, PW Kamlesh Kumar, Clerk from DC office appeared and produced the summoned record. The case was adjourned to 28.5.2014 for remaining evidence of the petitioner. It was

submitted that son-in-law of the petitioner, who had been suffering from chronic disease, was totally bed ridden. He was residing with the petitioner. On 5.10.2014, his condition became very serious. He was got admitted in a private hospital at Jalandhar. This fact was duly informed to the counsel representing the petitioner before the Court below. The learned court below adjourned the case on 6.10.2014 to 7.11.2014. Unfortunately, on 5.11.2014, son-in-law of the petitioner died and cremated on 7.11.2014. The learned Court below on 7.11.2014, adjourned the case to 28.11.2014 with last opportunity. The learned counsel representing the petitioner before the court below informed about the next date as 28.11.2014 but it was not informed that it was the last opportunity. The petitioner was busy in performing last rites of the deceased. The petitioner came to know about closing of evidence by order when Special Power of Attorney visited the court to attend the court proceedings. He submitted that in case one opportunity is granted, the petitioner will conclude his entire evidence on the next date of hearing i.e. 10.3.2015.

Heard learned counsel for the petitioner and perused the paper-book.

A perusal of the paper-book shows that on 6.3.2014, the petitioner examined PW Jasbir Singh, Reader to Tehsildar, Hoshiarpur. However, as he did not bring the summoned record, the case was adjourned to 18.4.2014, on which date, PW Kamlesh Kumar, Clerk from DC office, Hoshiarpur, was examined. Thereafter, the case was adjourned, as no evidence was produced. However, as submitted by counsel for the petitioner, son-in-law of the petitioner was seriously ill and died on 5.11.2014. He was cremated on 7.11.2014. The petitioner was informed about the next date of hearing as 28.11.2014 but he was not informed that it was the last opportunity. As the petitioner was busy in performing last rites of his deceased son-in-law, he could not conclude his evidence. The petitioner came to know about closing of evidence by order when his Special Power of Attorney visited the court.

Considering the aforesaid facts and as a matter of indulgence, while setting aside the impugned order dated 28.11.2014, closing the

evidence of the petitioner/plaintiffs, the learned court below is directed to grant one opportunity to the petitioner for completing his evidence on 10.3.2015. This shall be subject to deposit of costs of ₹ 2,000/- with the District Legal Service Authority, on or before the next date of hearing fixed before the learned court below. The petitioner shall be at liberty to get summons issued for the official witness (s).

The revision petition is disposed of in the manner indicated above.

3.3.2015
vs.

(Rajesh Bindal)
Judge