

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.1274 of 2014 (O&M)
Date of decision: 7.9.2015

Punjab State Warehousing Corporation and another

..... Petitioners

Versus

Keshav Kumar Sharma

..... Respondent

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

Present : Mr.Anil Kumar Sharma, Advocate for the petitioners.

None for the respondent.

ARUN PALLI, J. (Oral)

Vide order being assailed dated 15.11.2013, rendered by the Additional Civil Judge (Sr. Divn.), Ferozepur, evidence of the plaintiffs has since been closed by order.

Apparently, the petitioner-plaintiffs failed to lead and conclude their evidence on 15.11.2013, despite that being the last opportunity. Learned counsel for the petitioners submits that on 9.10.2013, the petitioner-plaintiffs had examined PW3 and his affidavit was tendered in evidence. However, cross-examination of the said witness was deferred owing to the request of learned counsel for the defendant. Even on the adjourned date i.e. 29.10.2013, PW3 was present for cross-examination but learned proxy counsel for the defendant requested for an adjournment and

the matter was posted for 15.11.2013. Further, the last opportunity to conclude the evidence was granted to the petitioner-plaintiffs on 9.9.2013, and thereafter, as indicated above, petitioners had examined their witness i.e. PW3. That being so, it is contended that the evidence of the petitioners ought not to have been closed.

Despite service, none had caused appearance on behalf of the respondent. Even if, petitioners have been remiss in pursuing their cause diligently, fact remains if one effective opportunity is not granted to them, they shall suffer an irreparable loss, which might also result in miscarriage of justice.

That being so, the petition is allowed. Consequently, the order dated 15.11.2013, is set aside. The petitioners shall be granted one effective opportunity to lead and conclude their entire evidence on the date that shall be fixed by the trial Court in this regard. However, it is made clear that in case the petitioners still fail to conclude their evidence, the same shall be deemed to have been closed. No adjournment shall be granted at any cost. Further, the petitioners shall lead and conclude their evidence at their own responsibility without any assistance or process of the Court. This however, shall be subject to payment of costs of ₹3,000/-, to be deposited with the trial Court.

September 07, 2015

Manoj Bhutani

**(ARUN PALLI)
JUDGE**