

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

CR No.1636 of 2015 (O&M)

Date of decision: 8.4.2015

Hoshiar Singh

..... Petitioner

Versus

Dilbag Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Rakesh Nehra, 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 order dated 20.10.2014 passed by the learned court below, whereby evidence of the petitioner-plaintiff was closed by order of the court.

The proceedings in the present case arise out of a suit for declaration and permanent injunction filed by petitioner/plaintiff against the respondents/defendants.

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 also the suit as well.

Learned counsel for the petitioner submitted that the suit was filed by petitioner/ plaintiff. His evidence was closed on 20.10.2014. The petitioner never put any signatures on the power of attorney or any other document pertaining to Civil Suit No.750 of 1991 and for this purpose, he filed application before the trial court for examination of signatures on the documents pertaining to the aforesaid civil suit by an expert. The application was allowed and specimen signatures of the petitioner were taken on record on 8.5.2014. Thereafter, the petitioner got examined all his witnesses without any delay till 26.8.2014 and thereafter, the case was fixed for 6.10.2014 for further evidence, but on 6.10.2014, counsel for the defendants sought adjournment and the case was adjourned to 20.10.2014 for plaintiff evidence with last opportunity.

On 20.10.2014, the petitioner was to conclude his evidence by examining finger print/signatures expert but the finger print/signatures expert could not reach the court as he met with an accident and the learned court below closed the evidence of the petitioner by court order. Evidence of the defendants is yet to be started. He further submitted that in case one opportunity is granted, the petitioner will complete his entire evidence on the next date of hearing.

The facts submitted by the learned counsel for the petitioner are borne out from the record. Non-appearance of the witness on the date fixed is on account of reasons beyond his control.

Accordingly, while setting aside the impugned order dated 20.10.2014, closing the evidence of the petitioner/plaintiff, the learned court below is directed to grant one effective opportunity to the petitioner for completing his evidence on the date to be fixed subject to cost of ₹ 2,500/- to be paid to the defendants/respondents by way of demand draft. Payment of costs shall be pre-condition. The impugned order passed by the learned court below is modified accordingly. If aggrieved, the respondents/defendants shall have right to file application for recalling the aforesaid order.

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

(RAJESH BINDAL)
JUDGE

8.4.2015

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