

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

CR No.4062 of 2015 (O&M)

Date of decision: 2.7.2015

Kehar Singh

..... Petitioner

Versus

Jagdish Chander

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Aman Pal, 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 25.5.2015 passed by the learned court below, whereby evidence of the petitioner-defendant was closed by order of the court and for grant of one opportunity to lead evidence.

The proceedings in the present case arise out of a suit for possession filed by respondent/plaintiff against the petitioner/defendant.

For the view I am taking in the present petition, I do not deem it appropriate to issue notice to the respondent, 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 the respondent/plaintiff. After completing the pleading, the issues were framed and the suit was fixed for plaintiff's evidence. After the plaintiff closed his evidence, on 19.11.2014, the defendant's evidence started. Though opportunities were granted to the defendant for his evidence, but he could not conclude the same. Vide order dated 25.5.2015, the learned court below closed the evidence of the petitioner/defendant by court order. Learned counsel for the petitioner submitted that out of nine, eight witnesses have already been examined and only one official witness from Municipal Corporation, Fatehabad remains to be examined. His diet money was also deposited. The next date of hearing in the present suit is today i.e. 2.7.2015. 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. It is not the case that the petitioner has not lead any evidence rather eight out of nine witnesses have been examined and only one official witness remains, whose diet money had also been deposited.

Accordingly, while setting aside the impugned order dated 25.5.2015, closing the evidence of the petitioner/defendant, 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 ₹ 5,000/- to be paid to the respondent/plaintiff 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 respondent/plaintiff 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

2.7.2015

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