

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

CR No.4833 of 2015 (O&M)

Date of decision: 3.8.2015

Balwinder Singh

..... Petitioner

Versus

Surinder Kaur @ Shindo and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Sahil Soi, Advocate for
Mr. S.P. Soi, 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 26.5.2015 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 recovery 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 the petitioner/plaintiff on 21.9.2013. After completion of the pleadings, the issues were framed on 11.11.2013 and the suit was fixed for plaintiff's evidence. On 9.1.2014 and 3.4.2014, the plaintiff could not produce any evidence. On 3.7.2014, one witness was examined-in-chief and his cross-examination was deferred on request of counsel for the defendants. On 5.8.2014, the case was adjourned to 22.9.2014, as there was chance of compromise between the parties. On 22.9.2014, one witness was present and partly examined and again the case was adjourned on request of counsel for the defendants. On 18.12.2014, no evidence was produced. On 10.3.2015, one witness was present and examined and the case was adjourned to 26.5.2015 with last opportunity. Vide order dated 26.5.2015,

the learned court below closed the evidence of the petitioner/plaintiff by court order. Learned counsel for the petitioner further submitted that though he has availed of 10 opportunities to lead evidence, but on most of the occasions, the case was not adjourned on request of counsel for the plaintiff. Cross-examination of the plaintiff only remains. The next date of hearing in the present suit is on 10.8.2015. He further submitted that in case one opportunity is granted, the petitioner will complete his entire evidence on the next date of hearing.

After hearing learned counsel for the petitioner, in my opinion, the impugned order dated 26.5.2015, closing the evidence of the petitioner/plaintiff deserves to be set aside. The learned court below is directed to grant one opportunity to the petitioner for completing his evidence on the next date of hearing i.e. 10.8.2015 subject to cost of ₹ 5,000/- to be paid to the respondents/defendants way of demand draft. Payment of costs shall be pre-condition. The impugned order passed by the learned court below is modified accordingly. In case the respondents/defendants are aggrieved, they shall have opportunity to file application for recalling of the order.

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

(RAJESH BINDAL)
JUDGE

3.8.2015

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