

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.5360 of 2015
Date of decision: 21.08.2015

Girdhari Lal

... Petitioner

Versus

Harcharan Kaur

... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Vibhor Bansal, Advocate for the petitioner.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

ARUN PALLI J. (Oral)

Vide order being assailed, dated 05.03.2015, rendered by Civil Judge (Jr. Divn.), Naraingarh, evidence of the petitioner-tenant had since been closed, as despite last opportunity granted to conclude his entire evidence, no RW was present. However, as indicated in the order itself, an application was moved by the petitioner on the same day i.e. 05.03.2015, to record his evidence by way of affidavit, as he was present in court and could not appear for the reasons detailed in his application at an appropriate time. Vide another order, dated 07.05.2015, as even the said application has been rejected, the petitioner-tenant is before this court.

I have heard learned counsel for the petitioner and perused the paper book.

On a due and thoughtful consideration of the matter in issue, I am of the considered view that although the petitioner has been negligent in pursuing his cause, as despite having availed many opportunities, he failed to lead and conclude his evidence. So much so, no RW was present despite last opportunity on 05.03.2015. Thus, the trial court was choice-less, but to close the evidence of the petitioner. However, this is also true that foreclosure of evidence of the petitioner would cause serious prejudice to his case and interest, which might result in miscarriage of justice. For the delay that has occurred on account of negligence of the petitioner, respondent could be compensated with some suitable costs. Therefore, to avert any further delay and the expense that respondent-landlord shall have to incur to defend these proceedings, no formal notice is being issued to the respondent-landlord. Accordingly, the order dated 05.03.2015, as also the order dated 07.05.2015, are set aside and the petition is accepted in the following terms:

i) Learned Rent Controller shall grant one effective opportunity to the petitioner to lead and conclude his entire evidence on the date that shall be fixed in this regard;

ii) No adjournment, at any cost, shall be granted to the petitioner, if he fails to lead his entire evidence on the said date;

iii) In the event, the petitioner fails to lead and conclude his entire evidence, his evidence shall be deemed to have been closed;

iv) The petitioner shall lead his entire evidence at his own responsibility without any assistance and process of the court; and

v) This, however, shall be subject to payment of ₹ 20,000/- as costs and that shall be condition precedent.

August 21, 2015
Rajan

(Arun Palli)
Judge