

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No.570 of 2015
Date of decision:23.01.2015

Amarjit Singh

.....Petitioner

Versus

Gurbax Singh

.....Respondent

CORAM : HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr.Sahil Kaushal, Advocate
and Mr.Gagan Oberoi, Advocate, for the petitioner.

G.S.Sandhawalialia J. (Oral)

Challenge in the present revision petition is to the order dated 02.12.2014 (Annexure P1), whereby the evidence of the plaintiff-petitioner has been closed by order of the Court. As per the order, one PW was present and examined and costs of ₹500/- had been deposited. Keeping in view the fact that it was the final opportunity and that numerous opportunities had been taken since 23.08.2012, the impugned order was passed and the case was fixed for final arguments.

A perusal of the zimni orders would go on to show that the defendant has been proceeded against *ex parte* on 07.08.2014 and costs had been imposed which have been duly paid. The suit is for recovery of ₹4,08,000/- and it is the case of the plaintiff that he will produce the witnesses on the next date and no prejudice will be caused, in any manner, since the defendant is not putting in appearance. Keeping in view the controversy involved and the settled principle that rules of procedure are

handmaids of justice and technicalities are not to come in the way and though there has been a lapse on the part of the plaintiff-petitioner in prosecuting his case diligently, inspite of the fact that *ex parte* proceedings are there against the defendant. Accordingly, this Court is of the opinion that the plaintiff/petitioner should be given adequate opportunity to examine the necessary witnesses, since heavy amount is involved and the suit was filed only on 17.03.2012.

Keeping in view the above facts and circumstances of the case, this Court is of the opinion that there is no requirement of issuing notice to the respondent as it will unnecessarily entail expenses and delay the matter and he has chosen not to contest the proceedings before the Trial Court. However, it is open to the respondent to file an appropriate application for recalling of the order, in case there is any concealment of fact.

Keeping in view the above facts, order dated 02.12.2014 is set aside and the plaintiff-petitioner is granted two adequate opportunities to produce his witnesses. The Trial Court shall, thereafter, proceed, in accordance with law.

Revision petition stands allowed in the abovesaid terms.

23.01.2015
sailesh

(G.S.Sandhawalia)
JUDGE