

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

C.R. No. 581 of 2015
Date of decision: 27.01.2015

Municipal Corporation, Gurgaon

....Petitioner(s)

Versus

Sukhbir and others

...Respondent(s)

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

Present: Mr. Ashwani Bura, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

Challenge in the present revision petition filed under Article 227 of the Constitution of India is to the order dated 08.12.2014 (Annexure P-3) whereby, Civil Judge (Jr. Divn.), Gurgaon has closed the evidence of the petitioner-Corporation on account of the fact that 4 effective opportunities have been granted to conclude the evidence.

Counsel for the petitioner has vehemently submitted that short dates were given from 27.10.2014 onwards till 08.12.2014 when the order was passed. He has referred to dates given on 31.10.2014, 18.11.2014, 01.12.2014 and submits that the suit in question is for declaration of a large chunk of valuable land situated in village Nathupur, Tehsil and District Gurgaon for which the plaintiffs are seeking declaration. It is submitted that the area of the village had been brought within the limits of Municipal Corporation on 02.08.2008 and all the properties of the Gram Panchayat vested in the Municipal Corporation and mutation was also sanctioned on 25.01.2009. It is submitted that due to elections in the State, the evidence could not be produced and have to be produced from another department.

Though substantial opportunities have been given, but the type of litigation which is involved shows that substantial interest of the Corporation is involved of immovable property of high value and in the opinion of this Court, the trial Court before passing the extreme order of closing the evidence should have imposed costs upon the officials of the Corporation to put them at guard. The effort of the Court to dispose of the proceedings at an early date can be appreciated. However, keeping in view the saying that “justice hurried is justice buried”, this Court is of the opinion that the extreme order should not have been passed keeping in view the above background. In such circumstances, the present order cannot be held to be justified.

In such circumstances, keeping in view the basic principle that the rules of procedure are hand-maids of justice and a party should be given an effective chance to defend his case, specially where serious civil consequences are involved, this Court is of the opinion that the other side can be adequately compensated by payment of costs.

In view of the above, this Court is of the opinion that the present petition is liable to be allowed. No notice is being issued to the respondents as it will unnecessarily entail unnecessary expenses and delay the matter. Even if they put in appearance, the result would remain the same. However, it is open to the respondents to file an appropriate application for recalling of the order in case there is any concealment of fact.

Accordingly, the present revision petition is allowed and the order dated 08.12.2014 is set aside, subject to payment of ₹10,000/- as costs. The trial Court shall give adequate opportunity to the petitioner to produce the necessary evidence. Copy of the order be sent to the

Commissioner, Municipal Corporation, Gurgaon to ensure that the said costs are paid on the next date and also that the relevant witnesses are directed to be present with the record before the trial Court keeping in view the controversy involved.

27.01.2015
shivani

(G.S. SANDHAWALIA)
JUDGE