

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Revision No. 7224 of 2015

DATE OF DECISION : October 30, 2015

Sarabjit Kumar

..... PETITIONER(S)

VERSUS

Kulwant Rai & ors.

.... RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Sandeep Arora, Advocate, for the petitioner.

...

1. Whether Reporters of local newspapers may be allowed to see the judgment? YES/NO

2. To be referred to the Reporter or not? YES/NO

3. Whether the judgment should be reported in the digest? YES/NO

...

ARUN PALLI, J. (Oral)

Vide order being assailed, dated 28.08.201, rendered by Civil Judge (Senior Division), Jalandhar, evidence of the petitioner-plaintiff had since been closed by order. The order reads as thus:-

"No PW is present. In this suit issues were framed on 21.11.2011 and thereafter plaintiff has availed several adjournments including last opportunities granted on 27.9.2012, 20.11.2012, 22.2.2013 and 13.7.2015, even earlier this suit was

dismissed in default Under order 9 Rule 8 CPC vide order dated 24.2.2014 but it was restored in the interest of justice. Again date is requested. There is no justification for granting any further adjournment for this purpose. Hence, evidence of plaintiff is closed by order. Now to come up on 8.9.2015 for DWs. PF/DM and list of witnesses be filed within three days."

Learned counsel for the petitioner contends that, in fact, examination-in-chief of the petitioner-plaintiff, by way of his affidavit, had since already been tendered and he only wishes to appear for the purposes of cross-examination. It is maintained that the petitioner does not intend to lead any other evidence.

For the delay and inconvenience caused to the defendants, Court could always award suitable costs to avoid any miscarriage of justice.

That being so, the petition is accepted and the order dated 28.08.2015 is set aside. This, however, shall be subject to payment of costs of ₹15,000/-. The trial court is directed to afford one effective opportunity to the petitioner to produce himself for the purposes of cross-examination only, as no other evidence shall be led. In case, the petitioner fails to produce himself on the appointed date, his evidence shall be deemed to have been closed and no further opportunity shall be granted.

OCTOBER 30, 2015
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(ARUN PALLI)
JUDGE