

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.725 of 2015
Date of decision: 14.09.2015

Kushma Devi

... Petitioner

Versus

Satish and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Manoj Kumar Sood, Advocate
for the petitioner.
Mr. Vikas Lochab, Advocate for respondent No.1.

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 23.12.2014,
evidence of the petitioner/plaintiff had since been closed, and
the same reads as thus:

“Present: Shri K.L. Sharma, Advocate for plaintiff.
Shri V.S. Dagar, Advocate for defendant
No.1.
Defendants No.2 & 3 exparte v.o.d. 10.5.13.

One PW naming Balraj Singh Patwari Halka
Saran is present and recorded. No other PW is present.
Today, it was the last opportunity. No ground for
further adjournment made out. Hence, evidence of
plaintiff is closed by court order. Now to come on
16.1.2015 for evidence of defendants, at own
responsibility. Cost paid.

Monika Khanagwal
CJJD/FBd.23.12.14”

No doubt, despite having availed number of opportunities, petitioner/plaintiff failed to conclude his evidence. So much so, petitioner was even afforded a last opportunity on 23.12.2014, but to no avail. Apparently, petitioner had been remiss in pursuing his cause but the fact remains that in case, he is not afforded one effective opportunity to conclude his evidence, he shall be deprived of proving his claim, which might result in miscarriage of justice. Particularly, when the petitioner himself is the plaintiff and would not gain by delaying the proceedings.

During the course of hearing, a consensus is reached between the counsel for the parties that the order dated 23.12.2014, be set aside and one effective opportunity be granted to the petitioner/plaintiff to examine one official witness of M.C., Faridabad and conclude his evidence subject, however, to payment of ₹ 10,000/- as costs.

That being so, the order dated 23.12.2014 is set aside and the petition is disposed of in the following terms:

- i) Petitioner shall be afforded one effective opportunity to examine one official witness of M.C., Faridabad, on the date that shall be fixed by the trial court in this regard;
- ii) In case, petitioner fails to conclude his evidence on the said date, his evidence shall be deemed to have been closed and no further opportunity shall be granted;

iii) This, however, shall be subject to payment of ₹
10,000/- as costs and that shall be condition precedent.

September 14, 2015
Rajan

(Arun Palli)
Judge