

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

122

**Civil Revision No.7566 of 2015(O & M)
Date of Decision:17.11.2015**

Ishwar Chand

....petitioner

Versus

Shri Maksud Ali

.....respondent

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

- 1.Whether Reporters of local papers may be allowed to see the judgement?**
- 2. To be referred to the Reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

Present: Mr.Rakesh Bakshi, Advocate
for the petitioner

ARUN PALLI, J.(ORAL):-

Vide order being assailed dated 29.07.2015, rendered by Civil Judge (Jr.Divn.), Jagadhri, application moved by the plaintiff-petitioner seeking permission to adduce the additional evidence, so as to recall plaintiff Ishwar Chand (PW3) and Kehar Singh (PW4), for their cross examination has since been dismissed. The reasons assigned by the learned trial Court in support of its order reads as thus:

“After perusal of the case file and the previous zimni orders, it transpires that the case was fixed for evidence of plaintiff on 22.02.2013. Thereafter on 05.05.2014 the evidence for the plaintiff was closed by Court order, wherein it has been observed that the plaintiff has already availed seven effective opportunities for concluding the evidence. The fact that PW3 and PW4 has not been examined was within the plaintiff's knowledge and he did not adduce their evidence despite opportunity. The plaintiff

has failed to show how the evidence sought to be adduced is necessary for just and proper decision of the case and has not tendered any reasonable explanation for not examining these witnesses earlier. Therefore the present application is dismissed.”

Ex facie, plaintiff-petitioner has been extremely negligent and remiss in pursuing his cause. But it shall also be true to say, that in case he is not permitted to produce himself as also Kehar Singh (PW4), for the purpose of cross examination, he shall suffer an incalculable loss, and which might result in miscarriage of justice. And as regards inconvenience and the delay caused, respondent could always be compensated by awarding suitable cost.

That being so, the order dated 29.07.2015 is set aside and, without issuing any notice to the respondent, to avert any further delay, and the expenses that he shall have to incur to defend these proceedings, the petition is disposed of, in the following terms:

1. Plaintiff-petitioner shall be granted one effective opportunity to produce himself as also Kehar Singh (PW4) for the purpose of cross examination, on the date that shall be fixed by the trial Court.
2. In case, plaintiff-petitioner fails to produce himself as also witness Kehar Singh (PW4) on the appointed date, his evidence shall be deemed to have been closed and no further opportunity shall be granted.
3. It, however, shall be subject to payment of ₹ 10,000/- as cost that shall be condition precedent.

17.11.2015
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(ARUN PALLI)
JUDGE