

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

Civil Revision No.888 of 2015

Date of decision: 2.3.2015

Gulzar Singh

... Petitioner

Versus

Harbans Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Rajesh Bansal, Advocate,
for the petitioner.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

This is a revision petition against the order dated 12th January, 2015 passed by the Civil Judge, Junior Division, Ambala closing evidence of the plaintiff by Court order. The plaintiff has approached this Court against the impugned order on the plea that the deferred witness could not appear in the witness box to depose with respect to the Will because he had met with an accident and could not reach the Court. He was a summoned witness and, therefore, the trial Court could have adjourned the matter in the interest of justice so that a summoned witness was enabled to appear in Court whose appearance was not the responsibility of the plaintiff. Besides that witness, the plaintiff requires two call more witnesses to be produced on his behalf so that he can complete his evidence regarding the

testamentary Will which is the subject corpus of the suit. These would be his own witnesses to be produced on his own risk and responsibility. The petitioner prays that the impugned order be set aside and he be given an effective opportunity to examine the summoned witnesses on his appearance and the two other witnesses which he wishes to produce on his own for which he needs reasonable time.

It has been pointed out that the trial Court granted opportunities to the plaintiff but not 'last opportunities' [as recorded in the order] except one before the evidence was closed. The trial Courts when they make interlocutory orders should show care in distinguishing between the singular and the plural so that this Court does not have to look at further record to determine the number of opportunities granted to a party to discern their conduct in prosecuting or defending suits.

In view of the nature of the order proposed to be passed, I do not feel it is necessary to issue notice to the respondents in this case which will only delay the matter and cause expense to the defendant.

Therefore, to serve the ends of justice, the impugned order dated 12th January, 2015 is set aside. The petitioner would have two effective opportunities to produce his own witnesses and the trial Court will ensure the presence of the summoned witness to appear in Court on the date fixed by it for his examination.

Disposed of.

(RAJIV NARAIN RAINA)
JUDGE

March 2, 2015
Paritosh Kumar