

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

CR No. 57 of 2016

Date of decision: 22.04.2016

Jaswant Singh

..... Petitioner

Versus

Major Singh

.....Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.N.S.Sodhi, Advocate
for the petitioner.

Mr. B.S.Bhalla, Advocate
for the respondent.

DARSHAN SINGH, J. (Oral)

The present revision petition has been preferred against the order dated 09.09.2015 passed by the learned Additional Civil Judge (Sr. Division), Nihal Singh Wala, vide which the evidence of the plaintiff-petitioner has been closed by order and the order dated 02.12.2015, vide which the application filed by the plaintiff-petitioner for recalling the order dated 09.09.2015, has been dismissed.

2. Learned counsel for the petitioner contended that plaintiff-Jaswant Singh has appeared in the witness box and his examination in chief was recorded. But, thereafter, he could not appear due to illness. He contended that the plaintiff-petitioner will complete his entire evidence on one

date at his own responsibility.

3. On the other hand, learned counsel for the respondent contended that the plaintiff has already availed eight opportunities to conclude the evidence. He was afforded the last opportunity and even the costs were imposed. He did not even pay the costs. So, there was no option with the learned trial Court, but to close the evidence of the petitioner. Thus, he contended that as the plaintiff has already been granted number of opportunities to lead the evidence, there is no illegality in the impugned orders.

4. I have duly considered the aforesaid contentions.

5. Plaintiff-petitioner has filed the suit for recovery of Rs. 10,47,200/- on the basis of pronote and receipt. So, certainly, the valuable rights of the petitioner are involved in the present suit. This fact is not disputed that the plaintiff-petitioner has already availed eight opportunities to produce his evidence. Even, the costs were imposed by the learned trial Court and the last opportunities were granted. But, even then, the petitioner has not been able to conclude his evidence. But, there is no denial to the fact that on 19.08.2015, plaintiff-Jaswant Singh has stepped into the witness box. His examination in chief was recorded. But, his cross-examination was deferred on the request of learned counsel for the defendant and on the next date i.e. 09.09.2015 his evidence was closed. There was no fault on the part of the plaintiff-

petitioner on 19.08.2015. On that date, the case was adjourned for cross-examination of the plaintiff on the request of learned counsel for the defendant and on the next date due to his non-appearance, the evidence of the plaintiff-petitioner has been closed.

6. As already mentioned, the valuable rights of the petitioner are involved in the suit. The *lis* between the parties should be decided on merits and not on technicalities. Learned counsel for the petitioner has undertaken to conclude the entire evidence of the petitioner on one date at his own responsibility. So, there is no question of causing any delay in the disposal of the case.

7. Thus, keeping in view my aforesaid discussion, the present revision petition is hereby allowed. The petitioner-plaintiff is granted one opportunity to conclude his evidence subject to Rs. 10,000/- as costs purely at his own responsibility without obtaining any process from the Court on the date to be fixed by the learned trial Court.

22.04.2016

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**(DARSHAN SINGH)
JUDGE**