IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.6256 of 2016
Date of decision: 22.09.2016

Rajinder Kumar

… Petitioner

Versus

Mohinder Singh @ Tarlochan Singh

… Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Rai Singh Chauhan, Advocate for the petitioner.

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ARUN PALLI J. (Oral)

Vide order being assailed, dated 01.02.2016 (Annexure P3), the trial court has closed the petitioner-plaintiff's evidence, for despite numerous opportunities he failed to examine himself and conclude his evidence. As also the order, dated 29.08.2016 (Annexure P6), vide which the application moved by the plaintiff to reopen the matter and permit him to lead his remaining evidence was also dismissed.

Learned counsel for the petitioner submits that the plaintiff had already examined three witnesses in support of his claim, and now he only intends to examine himself and another witness, namely, Charanjit (Photographer). He further submits that the respondent-defendant is yet to adduce evidence and the matter is still at the initial stage. And in the event, petitioner is not afforded one opportunity to conclude his evidence, he shall suffer an incalculable loss.

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I have heard learned counsel for the petitioner and perused the record.

Ex facie, the petitioner has been remiss and negligent to pursue his cause. But this is also true that, in case, he is not afforded one effective opportunity to examine himself, he shall not only suffer an irreparable loss, but that might result in miscarriage of justice.

That being so, the orders, dated 01.02.2016 (Annexure P3) & 29.08.2016 (Annexure P6), are 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, this petition is disposed of in the following terms:

i) The petitioner shall be afforded one effective opportunity to examine himself as also one Charanjit (Photographer) on the date fixed by the trial court in this regard;

ii) In the event, the petitioner fails to conclude his evidence on the stipulated date, his evidence shall be deemed to have been closed and no further opportunity shall be granted; and

iii) This, however, shall be subject to payment of costs of ₹ 2,000/-.

(Arun Palli)
Judge

September 22, 2016
Rajan

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