

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

-.-

Civil Revision No 6523 of 2016  
Date of decision: 29.09.2016

*Neelam Rani*

*..... Petitioner*

*Versus*

*Sohan Lal and others*

*..... Respondents*

**Coram: Hon'ble Mrs. Justice Rekha Mittal**

-.-

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

-.-

**Rekha Mittal, J.(Oral)**

The present petition has been directed against orders dated 13.05.2016 (Annexure P2) and dated 14.07.2016 (Annexure P6) whereby evidence of the petitioner/defendant was closed by order and application for reviewing order dated 13.05.2016, has been dismissed.

Counsel for the petitioner has submitted that though the trial Court has held that the petitioner availed 11 opportunities for adducing evidence but out of these 11 dates, on certain dates, application filed by the petitioner for recalling witness of the respondents/plaintiffs remained pending and the same was disposed of on 25.02.2016. It is further submitted that after closing of evidence of the petitioner, case had been adjourned on a number of occasions for rebuttal evidence but without any progress in the proceedings. Later, an application has been filed by a third party under Order 1 Rule 10 of the Code of Civil Procedure (in short, 'CPC') for impleadment and the same is pending consideration. It is argued with

vehemence that in case, the petitioner is not permitted to appear in the witness box to rebut the evidence adduced by the respondents/plaintiffs, a serious prejudice is likely to be caused as an adverse inference would be drawn against her for her failure to appear in the witness box. It is submitted that the petitioner is ready to examine herself on the date already fixed before the trial Court and she would ensure that a copy of her affidavit, to be tendered in examination in chief, is supplied to counsel opposite well in advance in order to enable him to cross examine the petitioner on the date fixed before the trial Court.

I have heard counsel for the petitioner, perused the paper book and various annexures appended with the petition.

The evidence of the petitioner was closed on 30.05.2016; application for recalling order dated 30.05.2016 was disposed of on 14.07.2016. Thereafter, the Court adjourned the case on a number of occasions for rebuttal evidence and later, an application under Order 1 Rule 10 read with Section 151 CPC appears to have been filed on behalf of Harmesh Lal. Though it appears that the petitioner did not peruse the litigation with due diligence and there was remiss on her part in tendering herself in the witness box on the dates fixed for recording her evidence but keeping in mind the principles of natural justice coupled with the factum that every party must get a fair opportunity to adduce relevant evidence, the petitioner is given one effective opportunity to examine herself but subject to the following conditions:-

- i) she will deposit an amount of Rs.5,000.00 in the Court for payment to the respondents/plaintiffs towards costs;
- ii) she will supply a copy of her affidavit to be tendered

in examination in chief in advance to counsel opposite before the date fixed;and

iii)she will ensure her presence on the date fixed before the trial Court, so that she can be examined and cross examined on that very date.

On failure of the petitioner to comply with the aforesaid conditions, the petition shall be deemed to be dismissed.

Before parting with the order, it is clarified that the petition has been disposed of without notice to the respondents in order to avoid inconvenience and incurring expenditure by them. However, if the respondents have any grievance to express, they shall be at liberty to file an appropriate application before this Court.

(Rekha Mittal)  
Judge

29.09.2016  
mohan bimbra

Whether speaking/reasoned: Yes/No  
Whether reportable : Yes/No