

CR-6794-2015

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

CR-6794-2015

Date of Decision: 08.02.2016

Narinder Singh

... Petitioner(s)

Versus

Nirmal Singh (since deceased) through his legal heir and others

... Respondent(s)

**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH
DHALIWAL**

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

Present: Mr. Arun Takhi, Advocate,
for the petitioner.

Mr. Sandeep Bansal, Advocate,
for respondent No.4.

Paramjeet Singh Dhaliwal, J. (Oral)

Instant civil revision has been filed under Article 227 of the Constitution of India for setting aside the order dated 17.07.2015 (Annexure P-4) passed by learned Civil Judge (Jr. Divn.), Hoshiarpur, whereby evidence of the petitioner-plaintiff has been closed by the Court order.

Brief facts as set out in the petition are to the effect that the petitioner-plaintiff filed suit for declaration to the effect that he is owner in possession of land measuring 17 marlas out of land measuring 5

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kanals 1 marlas, as detailed in head-note of plaint. Respondent No.4 filed written statement. From the pleadings of parties, issues were framed on 23.09.2011 and the petitioner-plaintiff was directed to lead evidence. On 24.02.2012, no evidence of the plaintiff was present and case was adjourned to 24.08.2012. On 24.08.2012, learned Presiding Officer was on medical leave and case was adjourned to 01.11.2012. On 01.11.2012, the lawyers were abstaining from work and case was adjourned to 01.12.2012. On 01.12.2012, no evidence of the plaintiff was present and case was adjourned to 01.04.2013. On 01.04.2013, two witnesses were present and partly examined. Their cross-examination was deferred on the request of learned counsel for respondent No.4 and case was adjourned to 14.06.2013. On 14.06.2013, learned Presiding Officer was on leave and case was adjourned to 28.10.2013. On 28.10.2013, the case was received in other court by transfer and no evidence of the plaintiff was present and the case was adjourned to 27.01.2014. On that day, no evidence of the plaintiff was present and case was adjourned to 07.05.2014. On 07.05.2014, no evidence of the plaintiff was present and case was adjourned to 22.08.2014. On 22.08.2014, learned Presiding Officer was on leave and case was adjourned to 17.10.2014. On 18.03.2015, the case was received in other court by transfer and no evidence of the plaintiff was present and case was adjourned to 29.04.2015. On 29.04.2015, no evidence of the plaintiff was present and case was adjourned to 17.07.2015 for evidence

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of plaintiff and last opportunity was granted. On 17.07.2015, no evidence of the plaintiff was present and ultimately, vide impugned order dated 17.07.2015, evidence of the petitioner-plaintiff has been closed by order.

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

By filing the instant revision, the petitioner seeks one effective opportunity to lead his evidence. It is correct that proviso to Order 17 Rule 1 CPC lays down that not more than three adjournments shall be granted to a party for its evidence. However, the said provision being rule of procedure has to be held to be directory and not mandatory in nature. This provision has to be applied with some flexibility and not with rigidity or inflexibility. Rules of procedure are handmaid to the administration of justice and are meant to meet the ends of justice and not to thwart or obstruct the same. In ***Salem Advocate Bar Association, Tamil Nadu vs. Union of India AIR 2005 Supreme Court 3353***, it has been held by the Hon'ble Supreme Court that in the facts and circumstances of a given case, more than three adjournments can be granted for evidence of a party by imposing punitive cost. In the present case, this Court is of the considered opinion that ends of justice would be met if one effective opportunity is given to the petitioner-plaintiff for examining himself and two witnesses i.e. PW 1 and PW 2 whose cross-examinations have been deferred, at his own risk and responsibility, subject to costs of ₹10,000/-, to be deposited with the District Legal

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Services Authority, Hoshiarpur.

For the reasons stated above, the impugned order dated 17.07.2015 (Annexure P-4) is set aside. The revision petition is allowed in the aforementioned terms.

08.02.2016

parveen kumar

(Paramjeet Singh Dhaliwal)
Judge