

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

CWP No.409 of 2016
Date of Decision: 12.01.2016

Himmat Singh

. . . .Petitioner

Versus

Jagdish Singh @ Billu and others

. . . . Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Jagdish Manchanda, for
for the petitioner.

RAKESH KUMAR JAIN, J.

The petitioner is aggrieved against the order dated 21.8.2015 passed by the Nayayadhikari, Gram Nyayalaya, Shahabad (M), Kurukshetra, by which his suit has been dismissed and the order of the Additional District Judge, Kurukshetra dated 9.12.2015 by which his appeal has also been dismissed.

As a matter of fact, the suit filed by the petitioner for permanent injunction was dismissed on 21.8.2015 in terms of Order 17 Rule 3 of the Code of Civil Procedure, 1908 [for short 'the CPC'] and in the absence of any evidence, the appeal was also dismissed.

Learned counsel for the petitioner has submitted that the impugned orders may be set aside and the case may be remanded back to the Gram Nyayalaya affording one more opportunity to the petitioner to lead his evidence. In this regard, he has relied upon two decisions of this Court in the cases of **“Hukam Chand Vs.**

Kedar Chand” 2000(2) RCR (Civil) 642 and **Baldev Singh Vs. Surinder Singh**” 2001(1) RCR (Civil) 434, judgment of the Karnataka High Court in the case of **“Afroz Banu (Smt.) Vs. Nandaram (deceased by L.Rs.)”** 2004(3) RCR (Civil) 327 and a Division Bench judgment of Delhi High Court in the case of **“Central Board of Secondary Education Vs. M/s Som Sudha Prakashan”** 2007(3) BC 517.

I have heard learned counsel for the petitioner and perused the available record from which it is found that the trial Court has recorded in its order that the petitioner had been granted many effective opportunities but he did not bring any evidence and his evidence was ultimately closed by order of the Court. The lower Appellate Court has also found that the petitioner has been granted 14 opportunities out of which ten were effective opportunities but he did not examine even a single witness, so-much-so, at the stage of framing of issues or at the stage, when the case was fixed for plaintiff’s evidence, not even a single document was tendered or proved by the plaintiff, in accordance with law and even the list of witnesses was not furnished. His evidence was closed by order of the Court on 21.8.2015 and the judgment was pronounced. The judgments relied upon by the petitioner are on different facts and are of no help to him.

Thus, in view of the aforesaid facts and circumstances, I do not find it to be a fit case for interference.

Dismissed.

12.01.2016

Vivek

(RAKESH KUMAR JAIN)
JUDGE