

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-1077 of 2017

Date of Decision:15.05.2017

Harbhajan Singh

.....Petitioner

Versus

Taranjit Kaur

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK.

Present: Mr.Jaideep Verma, Advocate,
for the petitioner.

None for the respondent.

RAMESHWAR SINGH MALIK, J.(Oral)

Present revision petition, at the hands of plaintiff, filed under Article 227 of the Constitution of India, is directed against the order dated 23.01.2017 passed by the learned trial Court, whereby evidence of the plaintiff was closed.

Notice of motion was issued.

As per office report dated 12.05.2017, service is complete. However, neither anybody has come present on behalf of the respondent to oppose the present revision petition, nor any request for pass over has been made.

Heard learned counsel for the petitioner.

A bare perusal of the impugned order passed by the learned trial Court would show that witnesses of the plaintiff-petitioner were present

before the learned trial Court in the pre-lunch session, who could not be

cross-examined because of non-availability of the counsel for the defendant. Having said that, this Court feels no hesitation to conclude that the learned trial Court proceeded in haste, while passing the impugned order closing the evidence of the plaintiff and the same cannot be sustained.

Present one was a case where plaintiff-petitioner was not at fault. His witnesses were present for their cross-examination but once they were not cross-examined because of the non-availability of the counsel for the defendant, petitioner-plaintiff could not have been made to suffer for none of his fault. Further, a combined reading of orders dated 23.01.2017 (Annexure P-4) and dated 02.02.2017 (Annexure P-5) will make it crystal clear that although the case was adjourned to 02.02.2017 directing the learned counsel for the defendant to remain present in the Court for the purpose of cross-examination of PW-Karamjit Singh, yet the remaining evidence of the plaintiff was closed. Both these orders cannot be reconciled. In such a situation, learned trial Court ought to have granted at least one more opportunity to the plaintiff to conclude his remaining evidence on the next date of hearing i.e. 02.02.2017 because one of his witness PW4 was directed to be cross-examined on 02.02.2017. In this view of the matter, impugned orders have not been found legally sustainable.

It is the settled proposition of law that rules of procedure are meant for advancing the cause of justice. Every court of law must make an endeavour to strike a balance between the parties to the litigation by granting them sufficient opportunity to put-up their best case before the Court. Neither anybody should be condemned unheard nor should be forced to go home with the grievance that reasonable opportunity was not granted

by the learned court. While following the abovesaid principle of law, the learned Court shall achieve twin objects; namely, (i) it would avoid multiplicity of litigation between the parties and (ii) the learned Court will be in a much better position to do complete and substantial justice between the parties by rendering an effective judgment. However, in the case in hand, learned trial Court failed to follow the above-said principle of law, while passing the impugned orders and the same cannot be sustained, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since manifest injustice has been caused to the petitioner-plaintiff without there being any fault on his part, the impugned orders cannot be sustained. Accordingly, impugned order dated 23.01.2017 closing evidence of plaintiff passed by the learned trial Court is hereby set aside. Learned trial Court is directed to grant one more effective opportunity to the petitioner-plaintiff to conclude his remaining evidence. Thereafter, learned trial Court shall proceed further to decide the case, in accordance with law.

Resultantly, with the above-said observations made and directions issued, instant revision petition stands allowed, however, with no order as to costs.

May 15, 2017
seema

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No