

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

CR No.137 of 2017

Date of decision: 17.8.2017

Kulwant Singh

...Petitioner

Versus

Didar Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.Lalit Pathak, Advocate for the petitioner.

RAMESHWAR SINGH MALIK, J. (Oral)

Feeling aggrieved against the orders dated 20.12.2016 (Annexures P-1 and P-2), whereby clarification sought by way of an application moved under Section 151 of the Code of Civil Procedure, was declined, defendant has approached this Court by way of instant civil revision petition under Article 227 of the Constitution of India, for setting aside the impugned orders.

Notice of motion was issued and the learned trial court was directed not to pass the final order.

Learned counsel for contesting respondent No.1 appeared on 7.3.2017. He sought and was granted time to get instructions before addressing his arguments, adjourning the case for today.

Case called twice. Neither anybody has come present to oppose the instant revision petition nor any request for pass over has been made on behalf of respondent No.1.

Heard learned counsel for the petitioner.

A bare combined reading of the above-said impugned orders passed by the learned trial court would show that the learned trial court proceeded on too technical approach, while passing the impugned orders. It is so said, because the petitioner was seeking only a clarification regarding one word whether it should have been defendant in place of plaintiff. Had this formal clarification been permitted and allowed by the learned trial court, it would have facilitated the learned trial court itself to arrive at a judicious conclusion so as to render an effective judgment between the parties. However, since the learned trial court misdirected itself, while passing the impugned orders altogether ignoring the above-said material aspect of the matter, impugned orders have resulted in a manifest injustice to the petitioner and the same cannot be sustained.

Further, it is the settled principle of law that rules of procedure are meant for advancing the cause of justice. Every court of law must make an endeavour to grant reasonable opportunities to both the parties to put up their best case before the court. Nobody should be forced to go home with the grievance that sufficient opportunity was not granted by the court. By following this principle of law, learned court would achieve twin objects i.e. (i) it would avoid multiplicity of litigation between the parties and (ii) the court would be in a better position to do substantial justice between the parties.

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 the impugned orders have been found suffering from patent illegality, these cannot be sustained. Accordingly, the impugned orders dated 20.12.2016 (Annexures P-1 and P-2) passed by the learned trial court are hereby set aside.

Application, moved by the petitioner, seeking clarification, would stand allowed. However, it would be open to the learned trial court to re-examine DW-2 Sanjeev Kumar, if it is found more feasible and necessary by the learned trial court to arrive at a judicious conclusion.

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

17.8.2017
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No