

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

CR No. 2227 of 2016(O&M)

Date of decision: 12.12.2017

Sudarshan

.....Petitioner

VERSUS

M/s Durga Rice and General Mills and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Kewal Kishan, Advocate for
Mr. Premjit Kalia, Advocate for the petitioner.

Mr. Rakesh Chopra, Advocate for respondents No.4 and 5.

REKHA MITTAL, J.

CM No.7461 of 2017

Prayer in this application filed under Order 22 Rule 4 read with Order 1 Rule 10 read with Section 151 of the Code of Civil Procedure, 1908 is for bringing on record the legal representatives of respondent – Harbans Lal (since deceased).

In view of averments made in the application supported by an affidavit of Sudarshan - the petitioner, the application is allowed and the persons mentioned in para 2 of the application are allowed to be brought on record as legal representatives of deceased- Harbans Lal (respondent No.3) for the purpose of present lis, subject to just exceptions.

Amended memo of parties is taken on record.

Disposed of accordingly.

CR No.2227 of 2016

The present petition directs challenge against order dated 26.02.2016 (Annexure P-6) passed by the trial Court whereby application of the respondents for adducing evidence has been allowed.

Counsel for the petitioner has submitted that the respondents availed several opportunities for adducing evidence but failed to examine any witness. It is further submitted that evidence of the respondents was closed by order on 16.01.2014 and the said order has attained finality, therefore, impugned order allowing another opportunity to the respondents to adduce evidence cannot be allowed to sustain and liable to be set aside.

Counsel representing the respondents/defendants would urge that the respondents filed application for allowing them to lead evidence after reopening of the case and such an application can be allowed in the light of judgment of this Court in **Santosh Kumar Berry Vs. Nirmala Devi and others, CR No.5639 of 2012.** It is further argued that rules of procedure are handmaid of administration of justice and the discretion exercised by the trial Court allowing one opportunity to the respondents to adduce evidence subject to certain conditions laid down in the impugned order should not be interfered with in exercise of supervisory jurisdiction of the Court.

I have heard counsel for the parties and perused the paper-book.

The petitioner has filed suit for recovery of Rs.2,90,078.50p against M/s Durga Rice and General Mills, Bassi Pathana and others. The evidence of the respondents was closed by order on 16.01.2014 and on the succeeding date i.e. 17.01.2014 counsel for the respondents stated before

the Court that he intended to file a revision petition before the High Court. The respondents filed revision against order dated 10.01.2014 passed by the trial Court but the said revision petition was dismissed by this Court. There is nothing on record suggestive of the fact that failure of the respondents to adduce evidence was intentional much less mala fide. As has been rightly argued by counsel for the respondents that rules of procedure are to be used to enhance cause of justice. The trial Court has allowed one opportunity to the respondents to lead evidence subject to certain conditions incorporated in the order impugned. I do not find any reason to interfere in the discretion exercised by the trial Court which can neither be termed as perverse much less absurd.

For the foregoing reasons, the petition fails and is accordingly dismissed. However, the trial Court shall ensure that the respondents/defendants get only one opportunity for adducing their evidence. After closing of evidence by the defendants, suit be decided expeditiously preferably within a period of one month.

DECEMBER 12, 2017
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no