

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

298

CR-2937 of 2015

Date of Decision:25.05.2017

Shailender Kumar

.....Petitioner

Versus

**Vishnu Dutt through his LRs
Raj Krishan and others**

.....Respondents

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

**Present: Mr.Vivek Goyal, Advocate,
for the petitioner.**

**Mr.Sanjay Verma, Advocate,
for respondent Nos.1(i) and (v) and 2 to 4.**

**Mr.P.K.Sharma, Advocate,
for respondent No.5.**

RAMESHWAR SINGH MALIK, J.(Oral)

Instant civil revision petition, at the hands of plaintiff, filed under Article 227 of the Constitution of India, is directed against the order dated 16.07.2014 (Annexure P-1) and also the order dated 29.01.2015 (Annexure P-2), whereby applications of the plaintiff-petitioner for permission to file fresh affidavits along with certain documents were dismissed.

Notice of motion was issued.

Heard learned counsel for the parties.

A bare combined reading of both the impugned orders containing Annexures P-1 and P-2 would show that the learned trial Court proceeded on a wholly misconceived approach, without appreciating true

facts of the case that petitioner being the plaintiff, was not going to gain anything in delaying the proceedings. There does not seem to be any negligence on the part of the plaintiff which might have dis-entitled him from producing the fresh affidavits and also the documents in his evidence, particularly when the evidence of the plaintiff was still going on. Having said that, this Court feels no hesitation to conclude that since the impugned orders are based on patently illegal approach adopted by the learned trial Court, the same cannot be sustained.

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, since the learned trial Court failed to follow the above-said principle of law, while passing the impugned orders, 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 the impugned orders (Annexures P-1 and P-2)

have been found suffering from patent illegality and perversity, the same cannot be sustained. Accordingly, impugned orders(Annexures P-1 and P-2) are hereby set aside. Learned trial Court is directed to grant one more effective opportunity to the plaintiff to conclude his evidence by filing fresh attested affidavits and also producing the remaining documents in his evidence in affirmative.

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

May 25, 2017
seema

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No