

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

CR No.2677 of 2014
Date of decision: 21.09.2017

Avtar Singh Sachdeva

.... Petitioner

VS.

Avinash Kaur & ors.

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. M.P.S.Mann, Advocate
for the petitioner.

Mr. Kanwaljit Singh, Sr. Advocate with
Mr. Abhishek Bajaj, Advocate
for the respondents.

Rameshwar Singh Malik, J.(Oral)

Instant revision petition, filed under Article 227 of the Constitution of India, at the hands of the plaintiff, is directed against the order dated 07.03.2014 (Annexure P-4) passed by the learned trial Court whereby the evidence of the plaintiff was closed by Court order.

Notice of motion was issued vide order dated 22.04.2014 and further proceedings before the trial Court were also stayed.

Heard learned counsel for the parties.

Learned counsel for the petitioner, at the very outset, very fairly states that although the petitioner ought to have been more careful and vigilant to conclude his evidence well in time, yet in the totality of facts and circumstances of the case, and also to avoid any miscarriage of justice, the

petitioner-plaintiff deserves to be granted one more opportunity to conclude his evidence and that too, subject to payment of reasonable amount of cost to the defendants/respondents.

On the other hand, learned senior counsel for the defendants/respondents vehemently opposed the above said contention raised by learned counsel for the petitioner contending that the plaintiff/petitioner has been proceeding on a very casual approach and is trying to misuse the process of law. He further submits that the petitioner had already been granted sufficient opportunities which were seven in numbers but he intentionally did not conclude his evidence. He prays for dismissal of the revision petition.

After hearing learned counsel for the parties and going through the record of the case, this Court is of the considered opinion that the abovesaid contention raised by learned counsel for the petitioner is well justified and the same deserves to be accepted. It is so said because it is 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 grant sufficient 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 opportunities were not granted by the learned Court. Since the learned trial Court could not appreciate the abovesaid principle of law while passing the impugned order, a serious prejudice has been caused to the petitioner because of which the impugned order cannot be sustained.

No prejudice was likely to be caused to the defendants/respondents, in case the petitioner would have been granted one more opportunity to conclude his evidence. Further proceedings before the learned trial Court are stayed for the last more than 3 years. No purpose is being served. Further, under such circumstances, defendants can always be compensated by payment of reasonable cost. It also goes without saying that whatever evidence would be produced by the plaintiff/petitioner, the learned trial Court shall examine, consider and appreciate the evidentiary value thereof at the appropriate stage. However, defendants/respondents would be entitled to cross-examine the witnesses of the petitioner.

No other argument was raised.

Considering the peculiar facts and circumstances of the case, this Court is of the considered opinion that since the impugned order has been found suffering from patent illegality, it cannot be sustained. Accordingly, the impugned order dated 07.03.2014 (Annexure P-4) passed by the learned trial Court is hereby set aside. Learned trial Court is directed to grant one more opportunity to the plaintiff/petitioner to conclude his evidence, however, subject to payment of Rs.5,000/- as cost to be paid to the defendants/respondents on or before the next date of hearing before the learned trial Court.

Since the suit is stated to be pending for the last more than 10 years, the learned trial Court is directed to decide the suit expeditiously.

Resultantly, with the abovesaid observations made and directions issued, present revision petition stands allowed, in the above said terms.

21.09.2017
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(Rameshwar Singh Malik)
Judge

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| 1. Whether speaking/non-speaking? | Yes |
| 2. Whether reportable? | Yes |