

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

CR No.3170 of 2017.

Date of Decision: 04.05.2017.

Devinderpal Kaur

...Petitioner.

VERSUS

Sarabjit Singh Waraich and others

...Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Sherry K. Singla, Advocate for the petitioner.

SNEH PRASHAR, J.

The petitioner is aggrieved of the order dated 10.03.2017 by virtue of which learned Civil Judge (Junior Division), Khanna closed her evidence by order.

The submissions made by Mr. Sherry K. Singla, learned counsel representing the petitioner have been considered.

Learned counsel for the petitioner submits that after the issues in the case were framed by learned trial court on 17.08.2013, the respondents-plaintiffs despite availing numerous opportunities for more than two years failed to conclude their evidence and their evidence was closed by learned trial court on 23.10.2015 by order. The case was fixed for evidence of the defendants for the first time on 09.11.2015. The petitioner-defendant No.1 examined Balwinder Singh as DW1 and Dr. Vikas Goel who are attesting witnesses to the will dated 17.07.2009 as DW3 and herself stepped into the witness box as DW2. The petitioner, who is a widow and is

her witness with great difficulty. She now wants to examine a Handwriting and Finger Print Expert in order to prove the thumb impression of deceased Surinder Singh on the will dated 17.07.2009. Examination of the said Expert is necessary for proper adjudication of the case, therefore, the petitioner be given further opportunity to produce her evidence.

Issues in this case were framed on 17.08.2013. The evidence of the respondents-plaintiffs was closed by order on 23.10.2015 and thereafter the case was posted to 09.11.2015 for the first time for evidence of the defendants. Thereafter, numerous opportunities were availed by the petitioner-defendants for their evidence. Though learned trial court recorded in the impugned order that 29 opportunities have been availed by the defendants to conclude their evidence, but perusal of the zimni orders reproduced in Para No.6 of the instant petition reveals that 23 effective opportunities for evidence had been availed by the petitioner-defendants.

The evidence of the defendants was closed by learned trial court on 10.03.2017. It is quite surprising that on the said date i.e. 10.03.2017 while closing the evidence of the petitioner by order, learned trial court allowed completion of cross-examination of DW2 Davinderpal Kaur and adjourned the case to 17.03.2017. As submitted by learned counsel for the petitioner, her cross-examination has been completed on 10.04.2017. It is further necessary to mention here that on 05.11.2016 last opportunity was given to the petitioner-defendants to conclude their entire evidence but even thereafter nine opportunities were availed by the petitioner-defendants. The orders indicate that repeatedly just on request of the counsel the case continued to be adjourned for presence of the witness who was to be cross examined.

In the above premise, there appears no justification for granting any further opportunity to the petitioner for her evidence. In fact, learned trial Court deserves to be advised to refrain from adjourning the civil cases in the manner the instant case had been adjourned from 09.11.2015 to 10.03.2017 for evidence of the defendants. The amended provisions of Order XVII of the Civil Procedure Code provide for granting only three opportunities to a party for producing its evidence. The case should be adjourned only when the party makes out a case for adjournment on reasonable ground. The practice of adjourning the cases in a mechanical way and just on the asking of the counsel/ party should be dispensed with. Expeditious trial is possible when the Presiding Officer takes control of the case seriously and effectively. That will not only improve the disposal but will also effectively administer justice to both the parties to the suit.

Thus, there being no illegality or perversity warranting interference in the order of learned trial Court, the petition is hereby dismissed.

(SNEH PRASHAR)
JUDGE

04.05.2017.
jitender sharma

Whether speaking/ reasoned : **Yes/ No**

Whether Reportable : **Yes/ No**