

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-4332-2016

Date of Decision:- 24.07.2017

Shiv Kumar

.....Petitioner

Versus

Ashok Nagpal and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Narender Pal Bhardwaj, Advocate
for the petitioner.

Mr. P.S. Chauhan, Advocate
for respondent Nos.1 & 3.

RITU BAHRI, J. (Oral)

Present petition has been filed under Article 227 of the Constitution of India for setting aside of impugned order dated 12.05.2016 (Annexure P-11), passed by learned Civil Judge (Jr. Divn.), Karnal whereby the evidence of the petitioner in his application dated 07.10.2014 under Order 9 Rule 13 read with Section 151 CPC (Annexure P-2) has been closed by observing that he had availed 10 effective opportunities to lead the evidence.

Perusal of zimini orders (Annexures P-5, P-7 to P-9) shows that during the pendency of application under Order 9 Rule 13 read with Section 151 CPC, examination-in-chief of the petitioner was recorded on

23.09.2015 and thereafter it was adjourned for cross-examination and consequently application under Order 6 Rule 17 read with Section 151 CPC for seeking amendment in the said application was filed and the same was allowed after getting the reply of the plaintiff on 02.12.2015. Thereafter, an amended application under Order 9 Rule 13 CPC was filed by the present petitioner and all the dates taken were not for recording the evidence.

Heard.

Taking into consideration the nature of litigation and the explanation put-forth, the trial Court ought to have granted one opportunity to the defendant, to conclude his evidence, particularly when, no prejudice was going to be caused to plaintiff-respondent No.1 and he could well be compensated with adequate costs, in this relevant connection.

In the light of aforesaid reasons, the instant revision petition is allowed. Order dated 12.05.2016 (Annexure P-11), passed by learned Civil Judge (Jr. Divn.), Karnal, is hereby set aside. The trial Court is directed to grant one effective opportunity to the petitioner-defendant to conclude his evidence. However, this would be subject to the payment of ₹5,000/- (Rupees Five Thousand) as costs, to be paid by the petitioner-defendant to plaintiff-respondent No.1.

(RITU BAHRI)
JUDGE

July 24, 2017
naresh.k

Whether speaking/reasoned	Yes
Whether reportable	No