

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.4710 of 2016 (O&M)

Date of decision: 03.04.2017

Manwinder Singh

... Petitioner

Vs.

Jagdish Kaur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Ms. Neha Rathi, Advocate for
Mr. R.S. Dadwal, Advocate
for the petitioner.

Mr. Mandeep Sharma, Advocate
for respondents No.1 & 2.

RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the order dated 18.05.2016 passed by the learned trial Court, whereby application of the petitioner-defendant No.2 to lead additional evidence was dismissed, defendant No.2 has approached this Court by way of present revision petition under Article 227 of the Constitution of India.

Notice of motion was issued and the learned trial Court was directed not to pass the final order.

Heard learned counsel for the parties.

Learned counsel for the petitioner, at the very outset, fairly states that although the petitioner was not very vigilant, while leading his evidence, yet in the totality of facts and circumstances, one last and final opportunity was required to be granted to the petitioner to lead his additional evidence. She

further submits that despite exercise of due diligence on the part of the petitioner, remaining evidence could not be produced, which is very necessary for just decision of the case. She prays for allowing the present revision petition, by setting aside the impugned order.

Per contra, learned counsel for respondents No.1 and 2 contends that impugned order passed by the learned trial Court does not suffer from any patent illegality and the same deserves to be upheld. He prays for dismissal of the revision petition.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that keeping in view the peculiar fact situation obtaining on record of the case in hand, instant one has been found to be a fit case for awarding one more opportunity to the petitioner to lead his additional evidence. It is so said because the petitioner was not going to gain anything, while not leading his remaining evidence. Having said that, this Court feels no hesitation to conclude that the learned Court below committed a serious error of law, while dismissing the application of the petitioner and because of this reason, impugned order 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 grant reasonable opportunity 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 opportunity was not granted to him by the Court. Further, learned counsel for respondents No.1 and 2 could not point out any prejudice, which is

likely to be caused to respondents No.1 and 2, if the petitioner-defendant No.2 is permitted to lead his additional evidence. Under these undisputed facts and circumstances of the case, this Court is of the view that the learned trial Court ought to have allowed the application of the petitioner.

During the course of hearing, learned counsel for respondents No.1 and 2 could not support the view taken by the learned trial Court, while passing the impugned order, which has caused manifest injustice to the petitioner and 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 order is not based on sound reasons and judicious approach, the same cannot be sustained. Accordingly, the impugned order dated 18.05.2016 is hereby set aside. Application of the petitioner for additional evidence would stand allowed.

Consequently, the learned trial Court is directed to grant one effective opportunity to the petitioner to lead his additional evidence, in accordance with law.

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

[RAMESHWAR SINGH MALIK]
JUDGE

03.04.2017
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No