

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.4759 of 2014 (O&M)

Date of decision: 20.09.2017

Manoj and others

... Petitioners

Vs.

Ram Sarup

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Kanhiya Soni, Advocate
for the petitioners.

Mr. Amit Kumar Goyal, Advocate
for the respondent.

RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the order dated 28.02.2014 (Annexure P-4) passed by the learned trial Court, whereby evidence of the defendants was closed, petitioners-defendants have approached this Court by way of present civil revision petition under Article 227 of the Constitution of India, for setting aside the impugned order.

Notice of motion was issued.

Heard learned counsel for the parties.

Learned counsel for the petitioners, at the very outset, fairly states that although the petitioners ought to have been more careful and vigilant to conclude their evidence on the additional issue in time, yet in the

totality of facts and circumstances of the case, petitioners deserve to be granted one more opportunity to conclude their remaining evidence.

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 petitioners is well justified and the same deserves to be accepted. It is so said because proceedings before the learned trial Court remained stayed for a period of more than three and half years. Suit would have been decided by the learned trial Court long back, if one opportunity to the petitioners would have been granted for leading their evidence on the additional issue, instead of passing the impugned order.

Further, no prejudice is likely to be caused to the plaintiff, in case one more opportunity is granted to the defendants-petitioners, because the plaintiff would be equally entitled for cross-examining the witnesses to be examined by the defendants. In view of the above and also to avoid miscarriage of justice, petitioners deserve to be granted one more opportunity to lead their remaining evidence on the additional issue.

It is the settled proposition of law that rules of procedure are meant for advancing the cause of justice. Both the parties to the litigation should be granted reasonable opportunity to put up their best case before the Court. Nobody should be forced to go home with the grievance that he was not granted sufficient opportunity to put up his case. So far as the impugned order is concerned, the learned trial Court could not appreciate the abovesaid principle of law, while passing the impugned order 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 has been found suffering from patent illegality, it cannot be sustained. Accordingly, the impugned order dated 28.02.2014 (Annexure P-4) is hereby set aside. Petitioners-defendants shall be entitled for one more opportunity to lead and conclude their evidence on the additional issue, however, subject to payment of Rs.5,000/- as costs to be paid to the respondent-plaintiff on or before the next date of hearing before the learned trial Court.

Since the matter remained pending before this Court for more than three and half 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 abovesaid terms.

[RAMESHWAR SINGH MALIK]
JUDGE

20.09.2017
vishnu

Whether speaking/reasoned Yes/No

Whether reportable Yes/No