

In the High Court of Punjab and Haryana at Chandigarh

234

CR No.5231 of 2016

Date of decision: 13.9.2017

MANJEET SINGH

.....petitioner

Versus

HARI SINGH AND ORS

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Gourav Jain, Advocate,
for the petitioner.

Mr.Ashwani Verma, Advocate
for respondent No.1.

RAJ MOHAN SINGH, J (oral)

As per office report, respondent No.7 has not been served. Learned counsel for the petitioner submits that respondent No.1 is the only contesting respondent and service qua respondents No.2 to 7 be dispensed with at this stage.

Ordered accordingly.

Petitioner has assailed the order dated 6.8.2016 passed by the Civil Judge (Sr.Divn.), Fatehabad, vide which evidence of defendant No.2- petitioner was closed by order of the Court.

As per observations made by the trial Court, twelve opportunities were granted to the petitioner including the last opportunity.

Learned counsel for the petitioner submitted that on 5.10.2015, defendant witnesses were sought to be examined and necessary expenses were also deposited for their service. Out of the total six summoned witnesses, only four witnesses were examined. At a subsequent stage, summons issued to Khushi Ram Kharbas, Advocate was also duly served on 26.10.2015, but he did not appear. Presence of the aforesaid advocate was never secured by the trial Court by means of coercive methods in terms of Order 16 Rule 10 CPC. On 5.11.2015, 5.12.2015, 4.1.2016 and 28.1.2016, cross-examinations of all defendant witnesses could not be done by the learned counsel for the plaintiff as he was statedly busy in some other cases.

By referring to the aforesaid factual position, learned counsel for the petitioner submitted that the delay, if any, in terms of total number of opportunities, cannot be attributed solely to the defendant. The factual details on record have not been denied by learned counsel for respondent No.1 by referring to any material on record.

In view of above, I deem it appropriate to allow this revision petition, however, with a rider that only one effective

opportunity shall be given to the petitioner to adduce evidence subject to payment of costs of ₹ 10,000/- to be paid to respondent No.1. The petitioner shall be entitled to summon the witnesses with the process of the Court and, thereafter, necessary consequences to follow in accordance with law. Payment of costs shall be the condition precedent for granting aforesaid indulgence by the trial Court.

Petition stands disposed of accordingly.

(RAJ MOHAN SINGH)
JUDGE

September 13, 2017
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Whether reasoned/speaking **Yes/No**

Whether reportable **Yes/No**