

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

CR No. 5282 of 2017

Date of Decision: 10.08.2017

BALBIR SINGH

-PETITIONER

VS

JOGINDER SINGH AND ORS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Ms. Sonia G. Singh, Advocate,
for the petitioner.

RAJ MOHAN SINGH, J. (ORAL)

This is a revision petition in which order dated 08.07.2016 passed by Civil Judge (Junior Division), Karnal has been assailed.

Plaintiff-petitioner filed a suit for possession by way of specific performance with a consequential relief of permanent injunction.

On 08.02.2016, PW1 Roshan Lal was examined in his examination-in-chief and his cross-examination was deferred at the instance of learned counsel for the defendants. Thereafter, the case was adjourned for 09.03.2016 and 06.04.2016. On 06.04.2016, two more plaintiff witnesses namely Balbir Singh and Kashmir Singh were examined in their examination-in-chief but their cross-examinations were deferred

at the instance of learned counsel for the defendants. Thereafter, the case was adjourned for evidence of the plaintiff on number of occasions and cross-examinations of aforesaid witnesses viz. PW1 to PW3 were never completed. Ultimately, the evidence of the plaintiff was closed by order of the Court on 08.07.2016.

Learned counsel for the petitioner seeks one opportunity to lead entire evidence of the plaintiff at his own risk subject to payment of adequate costs to the defendants.

Perusal of interlocutory orders on record shows that there was no complete evidence on behalf of the plaintiff till passing of order dated 08.07.2016. In the event of no evidence of the plaintiff, the trial Court could have proceeded in terms of Order 17 Rule 3 CPC i.e. to decide the suit forthwith in the absence of any evidence of the plaintiff but the trial Court preferred to adjourn the case for defendants evidence. In doing so, the trial Court could have granted one opportunity to the plaintiff subject to payment of adequate costs.

In view of nature of order which this Court proposes to pass, there is no necessity to call upon the respondents as it would lead to unnecessary expenses to be incurred by them and would further delay the disposal of the case.

In view of above, I deem it appropriate to grant one

opportunity to the plaintiff-petitioner to adduce entire evidence at his own responsibility without seeking any assistance from the Court, subject to payment of costs of Rs.15,000/- to be paid to the defendants in equal proportions.

The trial Court shall fix a date for the evidence of the plaintiff.

Payment of costs shall be the condition precedent for granting indulgence by the trial Court in the aforesaid context.

Disposed of.

10.08.2017
jyoti

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No