

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

CR No.597 of 2017 (O&M).

Date of Decision: 07.02.2017.

Harpreet Singh and another

....Petitioners.

VERSUS

Sikander Singh and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. C.S. Rana, Advocate for the petitioners.

SNEH PRASHAR, J.

CM-1775-CII-2017

Allowed, as prayed for.

CR-597-2017

The petitioners are aggrieved of the order dated 15.12.2016 by virtue of which learned Civil Judge (Junior Division), Ludhiana closed their evidence by order.

The submissions made Mr. C.S. Rana, learned counsel representing the petitioners have been considered.

Learned counsel for the petitioners submits that during the trial the petitioners-plaintiffs had filed an application for summoning file of Civil

on 07.10.1995. The case remained pending on account of non receipt of the file. After the file was received, plaintiff-petitioner No.2 was to be cross examined. As he was suffering from various ailments, he missed the call of the case although he was sitting outside the Court on 15.12.2016. Submitting that an application for amendment of the pleadings by the petitioners-plaintiffs was allowed by learned trial Court, therefore, the witnesses left to be examined by the petitioners including a Finger Print and Handwriting Expert are necessary for proper adjudication of the case, learned counsel prayed that the petitioners be given further opportunity to produce their evidence.

In Para No.7 of the instant petition, the petitioners have reproduced orders passed by learned trial Court from 09.10.2012 to 09.01.2017. Perusal of the orders passed by learned trial Court during the said period reveals that as many as 50 effective opportunities had been availed by the petitioners for adducing their evidence. Even after the file of the decided civil suit which the petitioners had summoned was received, they availed numerous opportunities for their evidence but failed to conclude the same. As already indicated above, orders of the learned trial Court w.e.f. 09.10.2012 have been reproduced but the previous orders which would show the date on which the issues were framed and would also disclose the number of opportunities availed by the petitioners for their evidence prior to 09.10.2012, have intentionally been withheld. It is also worthwhile to mention here that on 30.07.2013 last opportunity was given to the petitioners-plaintiffs to conclude their entire evidence but surprisingly even thereafter nine opportunities were availed by the petitioners-plaintiffs.

yet the petitioners availed 35 opportunities for their evidence but there was no progress in the case. The orders indicate that repeatedly just on request of the counsel the case continued to be adjourned for presence of the witness who was to be cross examined. After the file was received and the witness appeared yet the witness did not step into the witness box for his cross-examination and ultimately the evidence was closed by Court order.

The application under Order VI Rule 17 of the Code of Civil Procedure (for short, "CPC") for amendment in the plaint was filed by the petitioners on 09.10.2012 and the said application was allowed vide order dated 02.05.2013. After making amendment in the pleadings, it was for the petitioners to adduce substantive and reliable evidence but despite having availed 40 effective opportunities thereafter, they failed to conclude their evidence.

In the above premise, there appears no justification for granting any further opportunity to the petitioners for their evidence. In fact, it appears strange and the trial Court deserves to be advised to refrain from adjourning the civil cases in the manner the instant case had been adjourned from 2012 to 2017 just for evidence of the plaintiffs. The amended provisions of Order XVII CPC provide for granting only three opportunities to a party for producing its evidence. The case should be adjourned only when the party makes out a case for adjournment on reasonable ground. The practice of adjourning the cases in a mechanical way and just on the asking of the counsel/ party should be dispensed with. Expeditious trial is possible when the presiding officer takes control of the case seriously and effectively. That will not only improve the disposal but will also effectively

Thus, there being no illegality or perversity warranting interference in the order of learned trial Court, the petition is hereby dismissed.

(SNEH PRASHAR)
JUDGE

07.02.2017.
jitender sharma

Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No