

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

296

CR-6587-2016(O&M)

Date of Decision:11.08.2017

Surinder Kaur

.....Petitioner

Versus

Ajmer Singh (deceased)
through his LRs and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK.

Present: Mr.Amit Kumar Saini, Advocate,
for the petitioner.

Mr.Abhay Gupta, Advocate,
for the respondents.

RAMESHWAR SINGH MALIK, J.(Oral)

Feeling aggrieved against the order dated 12.07.2016 passed by the learned trial court, whereby application moved by the defendant permitting him for signing the written statement was dismissed, defendant-petitioner has approached this Court by way of instant revision petition, filed under Article 227 of the Constitution of India, for setting aside the impugned order (Annexure P-4).

Notice of motion was issued.

Heard learned counsel for the parties.

A bare perusal of the impugned order would show that neither the defendant was seeking any amendment in the written statement nor any evidence would be required to be produced by either of the parties. Further, no prejudice of any kind, whatsoever, is going to be caused to the plaintiff

as the plaintiff was not being taken by any surprise. In this view of the matter, the learned trial court ought to have allowed the application moved by the petitioner. Since the learned trial court could not appreciate this crucial aspect of the matter while passing the impugned order, a serious prejudice has been caused to the petitioner, because of which the impugned order cannot be sustained.

During the course of hearing when confronted with, as to what kind of prejudice was likely to be caused to the plaintiff, learned counsel for the respondents had no answer and rightly so, it being a matter of record. It is the settled proposition of law that rules of procedure are meant for advancing the cause of justice. Courts of law must make an endeavour to grant sufficient and reasonable opportunity to both the parties to the litigation to put-up their best case before the Court.

Nobody should be forced to go home with the grievance that reasonable opportunity was not granted by the Court. While following the abovesaid principle of law, the learned Court shall achieve twin objects; namely, (i) it would avoid multiplicity of litigation between the parties and (ii) the learned Court will be in a much better position to do complete and substantial justice between the parties. However, in the instant case, the learned trial Court failed to follow the abovesaid principle of law, while passing the impugned order and the same cannot be sustained.

During the course of hearing, learned counsel for the respondents could not address any meaningful arguments in support of the impugned order. In fact, since the impugned order has been found suffering from patent illegality, the same cannot be sustained.

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 opinion that the impugned order has been found suffering from patent illegality. Accordingly, impugned order dated 12.07.2016 (Annexure P-4) passed by the learned trial Court, is hereby set aside. Application moved by the defendant-petitioner would stand allowed. Thereafter, the learned trial court shall proceed further to decide the suit at an early date, in accordance with law.

Resultantly, with the above-said observations made and directions issued, instant revision petition stands allowed, however, with no order as to costs.

August 11, 2017
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(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No