

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

C.R. No. 8179 of 2017

Date of Decision : 22.11.2017

Kamaljit

.... Petitioner

Versus

Municipal Corporation, Amritsar and others.

.... Respondent(s)

CORAM : HON'BLE MR. JUSTICE B.S.WALIA

Present: Mr. Bhupinder Ghai, Advocate
for the petitioner.

B.S.WALIA, JUDGE (ORAL)

1. Challenge in this revision petition under Article 227 of the constitution of India read with Section 115 CPC is to order dated 11.10.2017 passed by the learned Civil Judge, Junior Division, Amritsar (Annexure P-5) vide which the evidence of the plaintiff-petitioner was closed and the case adjourned to 28.11.2017 for defendants evidence.

2. Learned counsel states that issues were framed on 03.02.2017 and the plaintiff-petitioner was partly examined on 09.05.2017, whereupon the case was adjourned to 03.07.2017 for further cross-examination of the plaintiff-petitioner and further evidence of the plaintiff. However on 03.07.2017 cross-examination of the plaintiff-petitioner was deferred to 28.08.2017 on account of non-availability of certain documents. On 28.08.2017 the plaintiff-petitioner was again partly examined besides two plaintiffs witnesses who were also examined by way of affidavit. Thereupon the case was adjourned to 14.09.2017 for plaintiff-petitioners evidence. On 14.09.2017 due to non availability of learned counsel for the

plaintiff the case was adjourned to 11.10.2017 for plaintiffs evidence, on which date plaintiffs witness were not present. Consequently, the learned trial Court while observing that the case was pending for evidence of the plaintiff for which last opportunity had been granted on the last date to conclude the evidence but plaintiff had failed to do needful despite availing numerous opportunities, no ground was made out to give any further opportunity to the plaintiff to lead any further evidence. Accordingly evidence on behalf of the plaintiff-petitioner was closed by order and case was adjourned to 30.10.2017 for evidence by defendants. However on 30.10.2017 no DWs were present, therefore, the case was adjourned to 28.11.2017 for defendants evidence.

3. A perusal of the order, as referred to above reveals that the plaintiff-petitioner was given a number of opportunities for examining PWs. However, despite availing a number of opportunities, the plaintiff failed to conclude the evidence. Thus, there is no infirmity in the impugned order. However, learned counsel prays that one opportunity be granted to the petitioner to conclude his evidence on such terms as are deemed just and proper by this Court.

4. I have considered the submissions made by the learned counsel for the plaintiff-petitioner and am of the view that the interest of justice would be met if the plaintiff-petitioner is granted one opportunity to conclude her evidence by ensuring presence of all PWs, subject to payment of costs. In order to prevent wastage of time and expenses being incurred by respondents having to engage a counsel, I refrain from issuing notice in the matter and dispose of the revision petition in limine by granting one effective opportunity to the plaintiff-petitioner to conclude her evidence

preferably on the next date of hearing fixed before the learned trial Court i.e on 28.11.2017, subject to payment of ₹3000/- as costs. Accordingly the impugned order dated 11.10.2017 (Annexure P-5) is set aside in terms of the observations made above.

Revision petition is disposed of in the aforementioned terms.

(B.S.WALIA)
JUDGE

November 22, 2017
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| 1. | Whether speaking/reasoned: | Yes/No |
| 2. | Whether reportable: | Yes/No |