

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

C.R. No. 8272 of 2017

Date of Decision : 27.11.2017

Surjeet Singh

.... Petitioner

Versus

Gurdeep Singh

.... Respondent

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

Present: Ms. Riffi Birla, Advocate
for the petitioner.

B.S.WALIA, JUDGE (ORAL)

1. Revision petition has been filed under Article 227 of the Constitution of India seeking setting aside of the order dated 08.11.2017 i.e Annexure P-1, passed by the learned Civil Judge, Junior Division, Jalalabad (W) whereby the evidence of the plaintiff was closed by order and the case was adjourned to 22.11.2017 for the evidence of the defendant. Proceedings are now listed before the learned trial Court for 29.11.2017 as it is stated that no proceedings took place on 22.11.2017 i.e the date fixed for defence evidence.

2. For the reasons as are mentioned here under the petition is taken up for final disposal without issuance of notice to the other side as doing so, would delay the proceedings, besides would entail expenses being incurred by respondents having to engage a counsel.

3. A perusal of the impugned order reveals that the evidence of the plaintiff-petitioner was closed on the ground that six effective opportunities including last opportunity for concluding evidence were

availed but the evidence had not been concluded and still one more opportunity was sought by the plaintiff-petitioner to conclude the evidence.

4. Learned counsel for the petitioner contended that the learned trial Court had not correctly recorded that six effective opportunities had been granted, since factually only four effective opportunities had been granted, as on 01.03.2017 replication was filed by the plaintiff-petitioner whereafter case was adjourned to 17.04.2017 for recording of the evidence of the plaintiff. On the said date none was present, whereupon the matter was adjourned to 04.07.2017. On 04.07.2017 also none was present on behalf of the plaintiff-petitioner, therefore, the case was adjourned to 13.09.2017, on which date the examination-in-chief of the plaintiff was recorded and cross-examination was deferred on the request of counsel for the defendant-respondent for 06.10.2017. However, on 06.10.2017 none was present on behalf of the plaintiff petitioner whereupon the matter was adjourned to 08.11.2017, on which date PW-2 was examined. However, plaintiff himself was not present for cross-examination.

5. In the aforementioned background learned counsel contends that the plaintiff-petitioner remains to be cross-examined, besides one more witness has to be produced and that the plaintiff-petitioner would conclude his evidence if one effective opportunity was granted.

6. A perusal of the position as stated by the learned counsel for the plaintiff-petitioner does not reveal any infirmity with the impugned order. Infact the plaintiff-petitioner was granted a number of opportunities to lead evidence in the suit for mandatory injunction. However for the reasons best known to plaintiff-petitioner, plaintiff-petitioner did not make himself available for cross-examination on 06.10.2017 or for that matter on

08.11.2017, nor produced any witness on said date despite wanting to produce one more witness. However, taking into account that the plaintiff petitioner is to be cross-examined and is to lead evidence through one more witness only, therefore, in the interest of justice this petition is disposed by setting aside the impugned order and directing grant of one effective opportunity to the plaintiff-petitioner to adduce entire evidence including ensuring his presence for cross-examination, subject to payment of ₹ 6000/- as costs to the respondent.

7. Revision petition is disposed of in the aforementioned terms.

(B.S.WALIA)
JUDGE

November 27, 2017
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| 1. | Whether speaking/reasoned: | Yes/No |
| 2. | Whether reportable: | Yes/No |