

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

276

CR-859-2017

Date of Decision:23.05.2017

Parkash Chand

.....Petitioner

Versus

Sukhpal Singh(deceased) through his LRs & others

.....Respondents

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

Present: Mr.H.R.Bhardwaj, Advocate,
for the petitioner.

Mr.K.S.Rana, Advocate,
for respondent Nos.1 and 2.

Mr.Bhag Singh, Advocate,
for respondent No.3.

RAMESHWAR SINGH MALIK, J.(Oral)

Feeling aggrieved against the order dated 07.11.2016 passed by the learned trial Court, whereby application of the plaintiff for additional evidence was dismissed, he has approached this Court by way of the instant civil revision petition, filed under Article 227 of the Constitution of India, for setting aside the impugned order.

Notice of motion was issued and in the meantime, further proceedings before the learned trial Court were stayed.

Heard learned counsel for the parties.

Learned counsel for the petitioner-plaintiff, at the very outset, rightly submitted that although the petitioner was not vigilant enough in pursuing his case before the learned trial Court, particularly when he himself did not appear as his own witness at the appropriate stage, yet in the

totality of facts and circumstances of the case, petitioner deserves to be granted only one opportunity, permitting him to appear as his own witness, so as to avoid miscarriage of justice. He also fairly states that the petitioner is ready to compensate the other side by payment of reasonable costs.

Having heard learned counsel for the parties at considerable length, after going through record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that the petitioner deserves to be granted but only one opportunity to appear as his own witness, so as to advance the cause of justice. However, the opportunity which is being granted to the petitioner will be subject to payment of ₹10,000/- as costs to be paid by the petitioner-plaintiff to the defendants-respondents before the learned trial Court.

It is so said because in case the plaintiff is not granted one more opportunity, he is bound to suffer irreparable loss and injury and that too for none of his own fault. Had he been properly advised by the learned counsel representing him before the learned trial Court, there would have been no difficulty for the plaintiff to appear as his own witness before any other PW was examined. This might be a bonafide mistake on the part of the learned counsel as well.

Be that as it may, proceeding on a holistic, pragmatic and constructive approach, so as to avoid miscarriage of justice and to do substantial justice between the parties, one opportunity is ordered to be granted to the petitioner-plaintiff. Impugned order dated 07.11.2016 passed by the learned trial Court is hereby set aside.

Parties are directed to appear before the learned trial Court on 05.07.2017. Petitioner shall be granted only one opportunity to appear as

his own witness, subject to payment of ₹10,000/- as costs, to be paid by the plaintiff-petitioner to the defendants-respondents before the learned trial Court. However, it is also made clear that if the petitioner fails to avail the opportunity granted to him, then he shall not be entitled to for any further indulgence on the part of the learned trial Court.

Resultantly, with the above-said observations made and directions issued, instant revision petition stands disposed of.

May 23, 2017
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(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No