

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 3498 of 2018

Date of Decision: 17.10.2018

Nirmaljit Kaur and another

.....Petitioners

Vs.

Balwant Kaur and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. R.S. Bajaj, Advocate,
for the petitioners.

Mr. Rajiv Dhawan, Advocate,
for respondents no. 1 and 2.

Mr. Manav Bajaj, Advocate,
for respondent no. 3.

AMOL RATTAN SINGH, J. (ORAL)

Pursuant to notice issued, the matter having been argued by both sides, it eventually boils down to whether the petitioner-plaintiffs should be given any further time to examine the remaining witnesses, with the report of the trial Court, as was ordered by this Court on an earlier date, eventually stating as follows:-

“It is humbly submitted that if the plaintiff had submitted or requested the court to issue summons to any witness, this Court would certainly have issued the summons to those witnesses. Since no request was made, as such, as per the undertaking of the plaintiff herself, the evidence was closed by order.”

Though learned counsel for the respondents have opposed granting any further time to the petitioners to lead evidence, they having not concluded such evidence within a period of one year (as contended), however, in the aforesaid situation, it is considered appropriate that the petitioners be given a period of one month from today to examine all their witnesses, subject of course to time taken by counsel for the respondents to cross-examine them.

Since the first respondent-defendant is stated to be 95 years old, this Court had asked learned counsel for the respondents as to whether they would like to get her examined immediately so as to ensure that her evidence is duly on record in the event of any unfortunate happening taking place.

However, they have submitted that if the time granted to the petitioners to conclude their evidence is one month only, they would rather examine respondent no. 1 immediately thereafter.

Having even noticed hereinabove that the trial Court has virtually admitted that 'specific summons' were not issued, learned counsel for the respondents has submitted that if that were so, even the four official witnesses who were examined by the petitioners would not have turned up to testify, which is countered by Mr. Bajaj, learned counsel for the petitioners, to submit that as a matter of fact no summons were issued for 21.04.2018 and 08.05.2018, after which those witnesses were examined on 17.05.2018, when neither the petitioners nor their counsel was present.

Considering all the facts aforesaid, it is considered appropriate that even though there is a transfer application stated to be pending filed by the petitioners before the learned District Judge, respondent no. 1 being 95 years old and her testimony therefore necessary to be recorded at the earliest, which the respondents do not wish to do prior to examining the plaintiffs' witnesses, this

petition is allowed with the impugned order set aside, and the petitioners given one months' time to examine all their witnesses, failing which this order would be deemed to have not been passed and the impugned order would be deemed to have been revived.

Since the contention is also that the four witnesses for the plaintiffs as were examined on 21.05.2018 were also examined behind the back of the plaintiffs, the plaintiffs would be at liberty to call for them to be examined again, but within the aforesaid period of one month, i.e. by 17.11.2018, positively.

The transfer application would be decided immediately thereafter, i.e. after 17.11.2018, by the learned District Judge, the next date of hearing in that case being 17.11.2018, as per learned counsel for the parties.

October 17, 2018
nitin/dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
Yes