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

**Civil Revision No.3907 of 2017
Date of Decision: 24.08.2018**

KAMLA DEVI @ KAMALJEET KAUR
.....Petitioner

Vs

KULDIP KUMAR AND ANR.
....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Vivek Sharma, Advocate
for the petitioner.

Mr. Dinesh Nagar, Advocate
for the respondents.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has assailed the order dated 08.02.2017 passed by the Civil Judge (Sr. Divn.) Shaheed Bhagat Singh Nagar, vide which evidence of defendants No.1/petitioner was closed.

[2]. Learned counsel for the petitioner submitted that the plaintiff has already concluded his evidence. Thereafter evidence of the defendants started w.e.f. 12.07.2016. The case was adjourned for 15.10.2016. Defendant No.1 was cross-examined on 06.12.2016. Thereafter case was adjourned for

defendants' evidence for 09.01.2017. No DW was present on 09.01.2017 and last opportunity was granted to the defendants to lead entire evidence on 03.02.2017. Defendant No.1/petitioner could not lead entire evidence and as a result of that the evidence of defendant No.1/petitioner was closed by order of the Court on 08.02.2017.

[3]. Learned counsel further submitted that the petitioner seeks one opportunity for leading entire evidence subject to payment of adequate cost on the ground that the plaintiff has already availed number of opportunities in leading his evidence and the defendant No.1/petitioner has been afforded only five opportunities including the last on 09.01.2017. Plea of fraud has to be proved by petitioner by leading evidence for which one opportunity is required to be given *do hors* any technicality in prosecution of the case.

[4]. Having heard learned counsel for the parties, I am of the view that the procedural law is handmaid of justice and the technicality should not be appreciated at the threshold of substantial cause of justice. Looking to the number of opportunities afforded to the plaintiff, I deem it appropriate to grant one more opportunity to the petitioner/defendant No.1 to lead entire evidence on the date fixed before the trial Court, subject to payment of costs of Rs.10,000/- to be paid to the

respondents in equal proportion.

[5]. In view of above, this revision petition is allowed and the impugned order dated 08.02.2017 passed by the Civil Judge (Sr. Divn.) Shaheed Bhagat Singh Nagar is set aside.

[6]. Payment of costs shall be the condition precedent for granting indulgence by the trial Court in the aforesaid context.

August 24, 2018

Atik

Whether speaking/reasoned
Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No
Yes/No