

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CR-4848-2018(O&M)

Date of decision : 21.08.2018

Punita

... Petitioner

Versus

Municipal Council Bhiwani

... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr.Sandeep Kumar Sharma, Advocate
for the petitioner.

AMOL RATTAN SINGH, J.(ORAL)

By this petition, the petitioner challenges the order of the learned trial Court dated 28.03.2018, by which the evidence of the petitioner-plaintiff was closed, with it stated in the impugned order that 17 effective opportunities for leading evidence had been granted despite which no evidence was led.

Learned counsel for the petitioner firstly submits that the petitioner was substituted in place of the original plaintiff vide an order passed on October 26, 2017, with the proceedings then adjourned to 15.11.2017, on which date the memo of appearance of counsel for the defendant was accepted and the case adjourned to 17.11.2017 for the plaintiffs' evidence, "at own responsibility". On that date it was adjourned to 18.12.2017, on which date it was adjourned to 16.01.2018 and thereafter to 06.02.2018, eventually on which date it was adjourned to 01.03.2018, when it was again adjourned to 13.03.2018 and then 28.03.2018, when the impugned order was passed.

It is seen that on each date from 17.11.2017 onwards, each order notices that no evidence was being led by the plaintiff, with a “last opportunity” granted to the plaintiff, (though from a perusal of order dated 06.02.2018 it is seen that cross-examination of PW-1 was deferred at request of counsel for the defendant).

Yet, thereafter, none of the plaintiffs' witnesses were produced, with the cross-examination of PW-1 also deferred on 01.03.2018. The cross-examination of PW-1 was obviously conducted on 13.03.2018, which order has not been produced by learned counsel for the petitioner.

He submits that all the witnesses sought to be summoned by the petitioner being official witnesses of the respondent Municipal Council, they not turning up was not the fault of the petitioner-plaintiff or her predecessors in interest, i.e. the original plaintiff.

Even accepting that fact, however, seeing the number of opportunities granted to the petitioner and her predecessor-in-interest to produce their witnesses (being at least 17), and even about 5 opportunities having been granted between 17.11.2017 till 28.03.2018 to the petitioner herself after she was substituted as the plaintiff, with not even an application filed or an oral request made that the witnesses be summoned by coercive process, I see no reason to entertain this petition. Consequently, it is dismissed.

(AMOL RATTAN SINGH)
JUDGE

August 21, 2018.

D.K./dinesh

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No