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

**Civil Revision No.5761 of 2017
Date of Decision: 20.11.2018**

SATYAPARKASH

.....Petitioner

Vs

RAM SINGH

....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Mukesh Yadav, Advocate
for the petitioner.

RAJ MOHAN SINGH, J. (Oral)

Petitioner has assailed the order dated 31.07.2017 passed by the Civil Judge (Jr. Divn.) Mohindergarh, vide which evidence of the plaintiff was closed by order of the Court.

Notice of motion was issued on 28.08.2017 by passing the following order:-

Learned counsel for the petitioner contends that issues were framed on 09.11.2016. 16.12.2016 was the first date for plaintiff evidence. The case was adjourned for 13.02.2017. No plaintiff witness was present on that date and the case was adjourned for 03.04.2017. On 03.04.2017, one plaintiff witness was recorded by the Local Commissioner under Order 18 Rule 4(2) CPC and the case was adjourned for 15.05.2017. No PW was present on 15.05.2017 and 21.07.2017, which was the last opportunity. However, the last opportunity was extended to 31.07.2017.

On the date fixed, one more plaintiff witness was examined under Order 18 Rule 4(2) CPC by the Local Commissioner. Since, no other plaintiff witness was present, evidence of the plaintiff was closed.

Learned counsel seeks one last opportunity on his own responsibility subject to payment of adequate costs. Notice of motion for 17.11.2017.

Till the next date of hearing, the trial Court shall adjourn the proceedings beyond the date fixed by this Court.”

As per order dated 20.03.2018, service was complete, but none appeared on behalf of the respondent. The case was adjourned for 17.05.2018 and thereafter the case was further adjourned for today.

Today also, there is no representation on behalf of the respondent.

In view of above, I proceeded to take up the case on merits.

Perusal of the record would show that issues were framed on 09.11.2016. Thereafter evidence of the plaintiff started w.e.f. 16.12.2016. The case was accordingly adjourned for 13.02.2017. Since there was no PW present on behalf of the plaintiff, case was further adjourned to 03.04.2017. One PW was examined on 03.04.2017 by the process of the Local Commissioner in terms of Order 18 Rule 4(2) CPC. Thereafter case was adjourned for 15.05.2017. No PW was present on

15.05.2017 and 21.07.2017 and last opportunity was granted to the plaintiff to conclude his entire evidence by the adjourned date. However, the date was further extended to 31.07.2017 and on the adjourned date one more witness was examined in terms of Order 18 Rule 4(2) CPC by the Local Commissioner. Since no other PW was present, evidence of the plaintiff came to be closed by order of the Court.

In view of aforesaid facts, I find that there is scope for grant of one more liberty to the plaintiff/petitioner to conclude his entire evidence on his own responsibility on the date fixed by the trial Court.

In view of above, impugned order dated 31.07.2017 passed by the Civil Judge (Jr. Divn.) Mohindergarh is set aside. This revision petition is allowed, subject to payment of Rs.10,000/- as costs to be paid to the defendant. On doing so, trial Court shall fix a date for leading entire evidence by the plaintiff on his own responsibility.

Payment of cost shall be the condition precedent for granting indulgence in the aforesaid context.

November 20, 2018

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No