

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

Civil Revision No.7025 of 2017(O&M)

Date of Decision:21.09.2018

Oriental Bank of Commerce

.....Petitioner

Vs.

Kashmir Singh and others

....Respondents

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr.Ashok Khunger, Advocate,
for the petitioner.

AMOL RATTAN SINGH, J. (Oral)

By this petition, the petitioner challenges the orders of the learned Civil Judge (Jr.Divn.), Guruharsahai, dated 02.01.2017 (Annexure P-1), as also of the same Court dated 19.08.2017 (Annexure P-3), by the first of which the evidence of the petitioner/plaintiff was closed and by the subsequent order the application seeking recalling of that order was also dismissed.

A perusal of the impugned order, dated 02.01.2017, shows that since the petitioner/plaintiff had availed of five effective opportunities including a "last and final opportunity," it had failed to conclude its evidence, leading to the passing of the said order.

The order dismissing the application for recalling of that order (dated 02.01.2017) has been passed essentially on the ground that the trial court 'did not have any such power to recall that order' and that the remedy of the petitioner would be before this Court.

It is to be noticed that upon notice having been issued to the respondents, despite them having been being served as per the report of the

Registry, none has appeared, despite the case having been put up in the urgent list today.

Upon specific query made to learned counsel for the petitioner, he has taken instructions telephonically, to the effect that even after the second order impugned herein was passed on 19.08.2017, the respondents/defendants have not led any evidence whatsoever.

That being so, this petition is allowed, with the impugned order set aside, and the single remaining witness (as contended by learned counsel for the petitioner), to be examined by the petitioner on the next date of hearing before the trial Court, subject to the petitioner paying Rs.5,000/- as costs to the respondents/defendants.

(AMOL RATTAN SINGH)
JUDGE

September 21, 2018.

dharamvir/dinesh

Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO