

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

CR No.7765 of 2016 (O&M)
Date of decision: 16th July, 2018

Country Colonisers Pvt. Ltd.

... Petitioner

Versus

Harvinder Jeet Singh Sekhon & others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Vikas Bahl, Senior Advocate with
Ms. Manzra Dutta, Advocate for the petitioner.

Respondent No.1 – in person.

Respondents No.2 to 5 – service dispensed with.

FATEH DEEP SINGH, J.

This order shall dispose off the civil revision preferred by the revisionist Country Colonizers Private Limited, which happens to be defendant No.1 in a civil suit preferred by present respondent Harvinder Jeet Singh Sekhon against the petitioner Company and other respondents, challenging the order dated 26.10.2016 (Annexure P1) whereby the Court has declined the request of the revisionist defendant in adjourning the matter enabling them to cross-examine.

Heard Mr. Vikas Bahl, Senior Advocate assisted by Ms. Manzra Dutta, Advocate for the petitioner; respondent No.1 appearing in person and perused the records of the case.

As is there and is undisputedly established from the records, the evidence of the plaintiff by the trial Court was adjourned on 10.02.2014; 13.10.2014; 17.11.2014 and 08.01.2015 but the plaintiff failed to lead any evidence, whereby the Court below afforded last opportunity to the plaintiff to conclude his evidence on 19.02.2015 and on that date the plaintiff had given an undertaking to complete his entire evidence on 03.04.2015. On 27.04.2015, the plaintiff examined two witnesses, himself as PW-1 and one Sachchidanand Pandey as PW-2 and on that date the plaintiff was partly cross-examined and his further cross-examination was deferred for 17.07.2015. However, on that date, no witness of the plaintiff was present and thereafter, repeatedly the plaintiff was cross-examined by the opposite party as is evident from the interim orders dated 27.04.2015; 17.07.2015; 20.08.2015; 16.09.2015 and 16.10.2015, PW-1 was not present for cross-examination and on 20.11.2015 the matter was sent to Empanelled Court Commissioner for recording the evidence and thereafter on 15.01.2016 the plaintiff was partly cross-examined and thereafter on the next date of hearing i.e. 11.02.2016 he did not come present for cross-examination but on 17.03.2016 on the request of the defendant, the matter was adjourned for further cross-examination of PW-1 subject to last opportunity and thereafter on 02.04.2016 again PW-1 Harvinder Jeet Singh Sekhon was partly cross-examined and on 29.04.2016 no PW was present and subsequently, on 27.05.2016 PW-1 was partly cross-examined and so

was on 08.08.2016. On 26.10.2016, cross-examination of PW-1 was concluded and it is during the cross-examination of PW-1 on 26.10.2016 the Court declined the prayer of the defendant for another adjournment to cross-examine the plaintiff and the Court was of the opinion that more than ten opportunities have been availed by the defendant to cross-examine the witness and thus, declined to further defer the cross-examination and which is the subject matter of challenge before this Court in this revision.

Appreciating the submissions of the two sides, the very provisions of Order XVIII Rule 2 CPC makes it emphatically clear that for the date fixed for hearing of the suit, the parties are supposed to lead their evidence in support of their issues; and Order XVIII Rule 16 CPC makes it abundantly clear that upon institution of a suit, the Court is within its powers to take evidence of a witness at any time and manner in which it deems it appropriate.

It would not be out of place to refer here that Order XVIII Rule 1 CPC by virtue of Punjab, Haryana and Chandigarh High Court amendments, provides as follows:

*“Court may grant time and adjourn hearing –
(1) Subject to the provisions of Or.23 R.3, the Court may, if sufficient cause is shown at any stage of the suit, grant time to the parties or to any of them, and may from time to time adjourn the hearing of the suit.*

(2) In every such case, the Court shall fix a day for the further hearing of the suit, and may make such order as it thinks fit with respect to the costs occasioned by the adjournment:

Provided that, when the hearing of evidence has once begun, the hearing of the suit shall be continued from day to day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the hearing beyond the following day to be necessary for reasons to be recorded.

(3) Where sufficient cause is not shown for the grant of an adjournment under sub-rule (1) the Court shall proceed with the suit forthwith.”

In the present case, as is highlighted from various orders, the entire suit has been much delayed by repeated seeking of adjournments for cross-examination of the plaintiff and in spite of two last opportunities having been afforded, did not deter the defendant from seeking more indulgence, which is not legitimate and bona fide and it has been rightly remarked by the Court below in the impugned order (Annexure P1) that there was no sufficient ground for affording such a prayer of the other side and rather it was a mere harassment to the witness.

Learned counsel for the petitioner Mr. Vikas Bahl, Senior Advocate assisted by Ms. Manzra Dutta, Advocate could not convince this Court how the impugned order has resulted in miscarriage of justice

or was illegal or perverse necessitating intervention by this Court. Apparently, there is no illegality in the impugned findings and the present revision being hopelessly without any merit, more motivated by a sinister design to delay the disposal of the suit, needs to be dismissed and hence it stands dismissed.

(FATEH DEEP SINGH)
JUDGE

July 16, 2018
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No