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

CR No.7678 of 2018 (O&M)

Date of Decision: 28.11.2018

Gourav Malhotra

Petitioner

Versus

Harsh Malhotra and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

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

None for respondents.

AVNEESH JHINGAN, J (Oral):

The order dated 10.10.2018 passed by Civil Judge (Sr. Division), Amritsar (hereinafter referred to as 'trial Court') closing the evidence of the petitioner/plaintiff has been assailed in the present civil revision petition.

The petitioner filed a suit for declaration and permanent injunction against the respondents/defendants. Pleadings were complete and issues were framed. The petitioner was given opportunities to adduce evidence. The trial Court vide order dated 10.10.2018 closed the evidence of the petitioner/plaintiff.

Aggrieved of the order, the present civil revision petition has been filed. Notice of motion was issued. Respondents No.2 to 12 have been served and it is reported that respondent No.1 has expired. No one has put in appearance for respondents No.2 to 12. Learned counsel for the petitioner states that respondent No.1 is not the

contesting party as he is the brother of the petitioner.

Learned counsel for the petitioner argues that there was delay in examining the witnesses as there was some communication gap with the counsel. Petitioner undertakes to produce entire evidence if one effective opportunity is afforded.

Law is well settled that parties should not be made to suffer because of conduct of the counsel. In the present case, it has been pleaded that there was some communication gap between the petitioner and the counsel, hence, there was delay in adducing the evidence.

Keeping in view the facts and circumstances of the case and in the interest of justice, order dated 10.10.2018 closing evidence is set aside. The learned trial Court shall provide an effective opportunity to the petitioner to produce his evidence.

The civil revision petition is allowed subject to costs of ₹5,000/- to be paid to respondents No.2 to 12.

Since the report is that respondent No.1 has expired, keeping in view the nature of relief sought, this order has been passed.

It is, however, clarified that in case respondents have any grievances, they would be at liberty to revive the petition by filing an application.

[AVNEESH JHINGAN]
JUDGE

November 28, 2018

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| 1. Whether speaking/ reasoned | : | Yes/ No |
| 2. Whether reportable | : | Yes/ No |