

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No.7871 of 2018 (O&M)

Date of Decision: 06.12.2018

Amrik Singh

.....Petitioner

Versus

Prithvi Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. J.S. Bhatti, Advocate
for the petitioner.

Mr. Rajneesh Raizada, Advocate
for the respondent.

AVNEESH JHINGAN, J.(oral)

The present civil revision petition has been filed being aggrieved of the order dated 29.8.2018, closing the evidence of the petitioner/defendant (for short 'petitioner') and order dated 22.10.2018 dismissing the application for recalling of ex-parte order.

The facts in brief are that the respondent-plaintiff (for short 'respondent') filed a civil suit in the year 2014. The pleadings were complete. The respondent concluded his evidence. The case was fixed for the petitioner's evidence. Since the case pertains to the year 2014, vide order dated 23.8.2018, the learned Trial Court granted an adjournment giving last opportunity to the petitioner to conclude his evidence subject to costs of ₹300/-. The case was adjourned to 29.8.2018.

Before 29.8.2018 the costs were paid by the petitioner but the petitioner failed to adduce any evidence on the said date. Hence, the evidence was closed. An application for recalling the order was moved and the same was dismissed vide order dated 22.10.2018. Hence, the present

Learned counsel for the petitioner states that on 29.8.2018, the petitioner as well as his counsel was having a medical emergency. The petitioner had met with an accident and the counsel had to rush to a Doctor. He prayed that one opportunity be provided to the petitioner to conclude the evidence.

Learned counsel for the respondent rebutted the contention raised by learned counsel for the petitioner. He stated that the entire endeavour of the petitioner is to delay the matter. He has already availed a number of effective opportunities.

Keeping in view the fact that the petitioner had met with an accident and there was a medical emergency to the counsel due to which evidence could not be adduced on 29.8.2018 and in the interest of justice, the orders dated 29.8.2018 closing the evidence of the petitioner and dated 22.10.2018 dismissing application for recalling the ex-parte order, are set aside.

In view of the above statement made by learned counsel for the petitioner, learned trial Court shall afford one effective opportunity to the petitioner to conclude his evidence. It is, however, clarified that it shall be the responsibility of the petitioner to ensure the service and presence of his witnesses.

The petition is allowed subject to payment of ₹15,000/- as costs to the respondent.

06.12.2018
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No