

Civil Revision No.998 of 2018

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

Civil Revision No.998 of 2018
Date of decision: 15.02.2018

Gurcharan Singh alias Charanjit Singh

.....Petitioner

versus

Gurmeet Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. N.S. Dandiwal, Advocate, for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this petition challenge has been laid to order dated 11.01.2018 of the trial Court, Nihal Singh Wala dismissing the suit of the petitioner under Order 9 Rule 8 CPC observing that despite availing two effective opportunities petitioner-plaintiff did not conclude his evidence.

In nutshell, in a suit of the petitioner for declaration, issues were framed on 09.11.2017 and the case was adjourned to 07.12.2017 for petitioner-plaintiff's evidence, on which date he did not adduce any evidence. Therefore, the case was further adjourned to 11.01.2018. On the said date none appeared on behalf of the petitioner-plaintiff nor any evidence was present on his behalf, therefore, the trial Court vide impugned order dated 11.01.2018 dismissed the suit of the petitioner under Order 9 Rule 8 CPC.

Learned counsel for the petitioner contends that the trial Court has dismissed his suit in a haste manner, only on second adjournment granted by it to the petitioner for his evidence. The trial Court failed to

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appreciate that it had not afforded sufficient opportunities to the petitioner-plaintiff for adducing his evidence before passing the impugned order, dismissing his suit.

Having given considerable thought to the submissions made by learned counsel for the petitioner, this Court is of the considered view that the trial Court has acted in a little haste in passing the impugned order inasmuch as on the very second date fixed for evidence of the petitioner-plaintiff, the trial Court has dismissed the suit which is a very harsh step in view of the settled proposition of law that no one should be non-suited for technical reasons or for procedural lapses.

Considering overall facts and circumstances, impugned order dated 11.01.2018 is set aside with a direction to the trial Court to grant two effective opportunities to the petitioner-plaintiff to conclude his evidence in support of his case, subject to costs of ₹ 3,000/- after due notice to the respondents.

This petition is disposed of without issuing notice to the respondents with a view to impart justice to the parties and to save the huge expenses which may be incurred by the respondents and also to avoid unnecessary delay in the adjudication of the matter. Still, if dissatisfied, the respondents may move this Court for recalling this order within six weeks from today.

(Ramendra Jain)
Judge

February 15, 2018
R.S.

Whether speaking/reasoned Yes/No

Whether reportable Yes/No.