

S.No.116

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

CRM-M-35421 of 2018 (O&M)

Date of Decision:05.09.2018

M/s Dhanjal Steel Products and anotherPetitioners

Vs.

Manjeet Kaur Purba

.....Respondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Aayush Gupta, Advocate
for the petitioners.

Mr. Rahul Rampal, Advocate
for the respondent.

Rajbir Sehrawat, J.(Oral)

This petition has been filed challenging order dated 24.04.2018 passed by Judicial Magistrate Ist Class, Ludhiana; whereby the evidence of the petitioners was closed by the order of the Court; as well as; challenging the order dated 02.08.2018 passed by the Revisional Court, whereby the revision petition filed by the present petitioners was dismissed.

The entire basis of the statement of the counsel for the petitioners is that they had already deposited the expenses for summoning of the witnesses on 06.01.2018 itself. Out of those witnesses, two witnesses had even been produced by them and the examination of the same had been completed. Counsel submits that long time was taken in completion of examination of those witnesses; because those were the government employees and the petitioners could not have forced them to bring the entire record on a particular date, as was required to be produced by the petitioners. Therefore, it is contended that the trial Court is factually not

so correct in recording that despite availing so many opportunities, the petitioners have not completed their evidence. It is contended by the counsel that, in any case, the petitioners need only one date for completion of their entire evidence. Therefore, it is submitted that one effective opportunity be granted to the petitioners, even if that has to be done on payment of some costs.

Learned counsel appearing for the respondent has strongly opposed the submissions made by counsel for the petitioners. It is contended by the counsel that the petitioners have availed at least eight opportunities. Despite that they have not completed their evidence. It is further contended that the Court has also recorded that the earlier costs imposed upon the petitioners were not deposited by them; till the order of closure of their evidence was passed by the Court.

Faced with this situation, counsel for the petitioners submits that, in fact, the petitioners had deposited the costs of Rs.5,000/- on 24.04.2018 itself. However, this fact could not be brought to the notice of the trial Court at the time of passing of the order. Hence, it cannot be said that the petitioners have not paid the costs.

Having heard the learned counsels for the parties and perused the record, this Court is of the considered opinion that although the Courts below have not committed any illegality or perversity in closing the evidence of the petitioners on the ground that they have availed sufficient opportunities for completing their evidence, however, it is trite law that justice should not only be done, it should appear to have been done; as

well. To remove any grouse, which the petitioners may be rearing, on account of supposedly not being given proper hearing, it would not be unjustified to grant one more opportunity to the petitioners to complete their entire evidence. However, this luxury has to come to the petitioners with accompanying burden of costs.

Resultantly, the petitioners are granted one more effective opportunity to complete their entire evidence, at their own costs and responsibility. This shall, however, be subject to costs of Rs.10,000/-, to be deposited by the petitioners with District Legal Services Authority, Ludhiana. It is made clear that any request of the petitioners, for fixing a date for further opportunity to lead the evidence shall be entertained by the Trial Court only after the petitioner produces the receipt of payment of costs before it. If the above imposed cost is not deposited with District Legal Services Authority, Ludhiana within 15 days from today, then the present petition shall be deemed to have been dismissed without any further reference to the Court.

Disposed of.

September 05, 2018
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No