

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 380 of 2019

Date of Decision: 28.03.2019

Rajender Kumar

.....Petitioner

Versus

Smt. Kamlesh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Alisha Soni, Advocate
for the petitioner.

Mr. Jatin Hans, Advocate
for respondents No. 1 and 2.

AVNEESH JHINGAN, J.(oral)

Aggrieved of the order dated 8.8.2018 closing the evidence of petitioner/defendant No.1 and order dated 1.11.2018 dismissing the application for re-calling the order dated 8.8.2018, passed by Civil Judge, (Junior Division), Hisar, (for short 'the Civil Court') the present revision petition has been filed.

The facts in brief are that respondents No.1 and 2/plaintiffs filed a suit for prohibitory and mandatory injunction to the effect that the petitioner-defendant No.1 be directed to remove the un-authorised construction. On completion of the pleadings, the plaintiffs concluded their evidence and the matter was fixed for defendants' evidence. In spite of availing various opportunities, the defendants failed to conclude the evidence. The evidence was closed vide order dated 8.8.2018. An application under Section 151 of the Code of Civil Procedure, 1908 was

moved for recalling the order dated 8.8.2018 and the same was dismissed. Hence, the present revision petition.

Learned counsel for the petitioner argues that the witnesses were present on 8.8.2018 but the counsel was busy and he could not appear in the Court in time, the evidence was closed. Learned counsel for the petitioner makes a statement that two effective opportunities be provided at his own responsibility so that the petitioner can conclude the evidence.

Learned counsel for respondents No. 1 and 2 argues that the entire endeavour is to delay the matter. The petitioner intentionally has not concluded the evidence so as to delay the proceedings.

Considering the facts and circumstances of the case that the evidence could not be concluded as counsel was not able to appear in the proceedings well in time in spite of the fact that the witnesses were present, the impugned orders are set aside subject to payment of costs of ₹ 15,000/- to be paid to respondents No. 1 and 2 by the petitioner.

It is, however, clarified that the Civil court shall provide only two effective opportunities to the petitioner to conclude the evidence at his own responsibility to ensure the presence of witnesses.

Disposed of accordingly.

(AVNEESH JHINGAN)
JUDGE

28.03.2019
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Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No