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

**Civil Revision No.6553 of 2016 (O&M)
Date of Decision: 20.05.2019**

Sapinder Singh

.....Petitioner

Vs

Sewak Singh and others

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. APS Guliani, Advocate
for the petitioner.

Mr. Vijay Lath, Advocate
for respondent No.1.

Mr. Shiv Kumar, Advocate for
Mr. Ashok Sharma, Advocate
for respondents No.2 and 3.

RAJ MOHAN SINGH, J.

[1]. Petitioner has preferred this revision petition against the order dated 12.09.2016 passed by the Civil Judge (Jr. Divn.) Ropar vide which the evidence of the petitioner/defendant No.3 was closed by order of the Court.

[2]. Perusal of the impugned order would show that the case was fixed for 12.09.2016 for evidence of defendant No.3 after affording last opportunity. The defendant's evidence was not available. The case was pending for defendant's evidence

since 06.11.2012, but the same was not concluded by defendant No.3 /petitioner. The trial Court held that no further opportunity was required to be given and closed the evidence of the defendant by order of the Court.

[3]. The brother of the petitioner filed the suit for declaration, mandatory injunction and permanent injunction against defendant No.1 Punjab State Electricity Board and others including the petitioner. Written statement was filed by defendant No.3/petitioner. On 14.08.2016, defendants No.1 and 2 closed their evidence. Evidence of the petitioner/defendant No.3 was yet to be completed. Petitioner had deposited the diet money for his witness on 01.08.2013, but the witness could not be examined as he had gone abroad. The trial Court passed the order dated 24.08.2016 to that effect. The trial Court summoned DW-4 Amrik Singh for 12.09.2016. Diet money qua DW Paramjit Singh was deposited on 01.08.2013 and he was also summoned for the date fixed.

[4]. On 12.09.2016, an official from the Electricity Department appeared and informed the Court that Amrik Singh had already died, but the said witness was not recorded by the trial Court on the ground that statement of Amrik Singh had already been recorded on behalf of defendants No.1 and 2. DW Paramjit Singh was present in Court, but his evidence could not

be recorded due to heavy rain and thunderstorm. There was disruption in electricity supply and affidavit of the said witness could not be printed though it was typed. A request was made to the trial Court, but the Court passed the impugned order.

[5]. Perusal of the material on record would show that diet money of DW Praramjit Singh was deposited on 01.08.2013, but the witness could not be examined being away to Canada, but he came to India and was present in Court on 12.09.2016, when the impugned order was passed. The application was filed by the petitioner on 12.09.2016 itself before the District and Sessions Judge, Ropar highlighting that the affidavit of the witness was ready, but the same could not be printed on account of disruption in electricity supply. When the Advocate and witness came to the Court at about 03.40 p.m., by that time, the impugned order had already been passed by the trial Court closing the evidence of the defendant by order.

[6]. In view of aforesaid facts and circumstances of the case, I feel that even though the suit is pending before the trial Court for some time and defendant No.3 has also not taken due care in completing his evidence at the earliest, but still keeping in view the proceedings of the case on 12.09.2016, when the affidavit of the witness was got typed but the printout could not be obtained on account of disruption in electricity supply and the

fact was brought to the notice of the District and Sessions Judge, Ropar, I deem it appropriate to grant one and last opportunity to the petitioner to complete his evidence, however subject to costs of Rs.20,000/- to be paid to the plaintiff/respondent No.1. Consequently, the impugned order dated 12.09.2016 passed by the Civil Judge (Jr. Divn.) Ropar is set aside. This revision petition is accordingly disposed of.

[7]. Payment of costs shall be the condition precedent for granting indulgence by the trial Court in the aforesaid context.

May 20, 2019

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No