

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

CR-8346-2018

Date of decision: 16.10.2019

Sushma Devi

.....Petitioner.

vs.

Bishan Devi and others

.....Respondents.

CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR

Present: - Ms. Pratibha Yadav, Advocate for the petitioner.
Mr. Ajit Kumar Sharma, Advocate for
Mr. R.D. Yadav, Advocate for respondents No. 1 to 4.

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Sanjay Kumar, J. (ORAL)

The petitioner in this revision petition, filed under Article 227 of the Constitution of India, is the plaintiff in CIS No. CS-2797-2015 on the file of the learned Civil Judge (Junior Division), Rewari. By order dated 5.11.2018, the trial Court closed the evidence of the petitioner-plaintiff and adjourned the matter for the evidence of the defendants. Aggrieved thereby, the petitioner is before this Court.

It is the case of the petitioner-plaintiff that she was unwell and due to the said fact, she could not present herself for her cross-examination and for adducing further evidence on 5.11.2018.

It is however an admitted fact that the petitioner-plaintiff did not produce any document in proof of her ill health on the said date which interdicted her from presenting herself before the trial Court.

By order dated 7.12.2018, this Court directed the trial Court to adjourn its proceedings beyond the date fixed for the next hearing of this revision. The said interim order was continued thereafter.

Heard Ms. Yadav, learned counsel representing the petitioner-plaintiff, and Mr. Sharma, learned counsel representing respondents No. 1 to 4.

Respondents No. 5 to 9 are shown as proforma respondents. There is therefore no necessity to put them on notice or afford them an opportunity of hearing.

The prescription slip dated 2.11.2018 in the name of the petitioner-plaintiff issued by one Dr. S.K. Sharma, Physician, attached to Nav Yug Health Clinic at Najafgarh, New Delhi, is placed on record in proof of the petitioner-plaintiff having been advised rest for five days. This document did not form part of the record before the trial Court but there is no reason to doubt the genuineness of the same. Giving the benefit of doubt to the petitioner-plaintiff, in this regard, this Court is of the opinion that one last opportunity may be afforded to her to complete her evidence and prosecute the suit. Such benefit shall however be subject to conditions.

The revision petition is accordingly allowed setting aside the order dated 5.11.2018 passed by the trial Court closing the evidence of the petitioner-plaintiff. The trial Court shall fix a date for the petitioner-plaintiff to present herself for cross-examination and also for adducing further evidence if any. The petitioner-plaintiff shall do the needful on the date fixed by the trial Court without seeking further adjournments. This benefit shall be extended to petitioner-plaintiff upon payment of costs of Rs. 5,000/- to respondents No. 1 to 4. Proof of payment of costs shall be produced before the trial Court within ten days from the date of receipt of a certified copy of this order.

Revision petition stands allowed in the aforesaid terms.

(SANJAY KUMAR)
JUDGE

16.10.2019

preeti

whether speaking/non speaking

whether reportable/non reportable

yes

yes/no