

CR No. 3175 of 2019 (O&M)
Date of Decision:-12.12.2019

Nachittar singh and others ... Respondents

Present:- Mr. Rahul Rampal, Advocate,
for the petitioners.

Mr. Chandan Deep Singh, Advocate,
for respondents No.1 and 2.

Mr.Sahil Abhi, Advocate,
for respondents No.3 to 5.

RAJ MOHAN SINGH, J.(Oral)

The petitioners have assailed the order dated 29.04.2019 passed by the Civil Judge (Jr. Divn.), Ludhiana vide which the opportunity to lead evidence in rebuttal was declined.

Earlier, Civil Revision No.2432 of 2014 was filed by respondents No.1 and 2 against the present petitioners. Vide order dated 02.04.2014, the aforesaid revision petition was disposed of without notice to the present petitioners. The order reads as under:-

"There is no reason to interfere with the discretion exercised by the learned trial Court in restoring the suit.

However, noticing the fact that the suit itself was initiated in the year 2007, I am of the considered view that the respondents would not be given more than three opportunities to lead their evidence spread out over a period of three weeks each and similarly the petitioners would also be given three opportunities to conclude their evidence on the same pattern and thereafter short adjournment would be given for leading evidence in rebuttal. The suit would be concluded within a period of one year positively.

The petition is disposed of with the aforesaid directions."

Thereafter, in a reference for extension of time, order dated 15.02.2019 was passed in CM No.3439-CII-2019 in CR No.2432 of 2014.

Defendants while leading evidence in affirmative led evidence on issues No.6 to 18, 23 and 24. Plaintiffs closed their evidence in affirmative except documents (if any) vide order dated 03.07.2018.

In view of the order dated 02.04.2014 passed by the High Court in the aforesaid civil revision No.2432 of 2014, the plaintiffs were entitled to lead evidence in rebuttal for which short adjournments were required to be given by the Trial Court. The right to lead evidence in rebuttal has been denied vide the impugned order on the ground that the evidence of the plaintiff was closed in affirmative, therefore, opportunity of leading evidence in rebuttal cannot be granted. Reference of civil revision

petition No.2432 of 2014 has also been made.

I am of the considered opinion that the plaintiffs are entitled for one opportunity to lead evidence in rebuttal even in the light of observations made by the High Court in civil revision petition No.2432 of 2014 vide order dated 02.04.2014. The plaintiffs-petitioners shall lead the evidence in rebuttal on the date already fixed with the process of the Court.

With the aforesaid observation, this revision petition is disposed of.

12.12.2019

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**(Raj Mohan Singh)
Judge**

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No