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

**1. Civil Revision No.3521 of 2019 (O&M)
Date of Decision: 30.09.2019**

**Jatinder SinghPetitioner
Vs
Kulwant KaurRespondent**

2. Civil Revision No.3525 of 2019 (O&M)

**Kuldeep SinghPetitioner
Vs
Kulwant KaurRespondent**

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

Present:Mr. Gurcharan Dass, Advocate
for the petitioner(s).

Mr. Sham Lal Bhalla, Advocate
for the respondent.

RAJ MOHAN SINGH, J.

[1]. Vide this common order, CR Nos.3521 and 3525 of 2019 (O&M) are being decided.

[2]. Both the aforesaid Revision petitions have been preferred against the order(s) dated 06.03.2019 separately passed by the Civil Judge (Junior Division) Ludhiana in Civil Suit No.488 dated 27.08.2013 titled '*Jatinder Singh vs. Kulwant Kaur*' and in Civil Suit No.51319 of 2019 titled '*Kuldeep Singh vs. Kulwant Kaur*' vide which evidence of the plaintiff/

petitioner(s) was closed by order of the Court. Since both the petitions involve common cause of action, therefore, for brevity facts are being culled out from CR No.3521 of 2019 (O&M).

[3]. Perusal of the record would show that a suit for declaration was filed by the plaintiff on 23.08.2013. After summoning of the defendant, the amended written statement was filed on 28.11.2017. Thereafter, defendant filed an application under Order 18 Rule 17 CPC. The trial Court vide order dated 04.01.2018, adjourned the case for filing reply to the aforesaid application by the plaintiff. Thereafter, the trial Court adjourned the case on the aforesaid application on 18.01.2018, 05.02.2018, 20.02.2018, 12.03.2018, 10.04.2018, 02.05.2018 and 11.05.2018 i.e. the date on which the said application was allowed. The defendant was permitted to cross-examine the plaintiff regarding those facts which were introduced by way of amendment.

[4]. Perusal of the order dated 11.05.2018 would show that the case remained pending for decision of the application under Order 18 Rule 17 CPC from 04.01.2018 to 11.05.2018. Thereafter the case was adjourned for cross-examination of PWs on 28.05.2018 and 02.07.2018 at the request of the plaintiff. On 20.07.2018, PW-1 was present, but he was not cross-examined by the defendant and the case was adjourned

for cross-examination of PW-1 at the instance of the learned counsel for the defendant. On the adjourned date i.e. 04.08.2018, PW-1 was not examined by learned counsel for the defendant and on joint request, the case was adjourned for cross-examination of PW-1 and for remaining PWs subject to last opportunity.

[5]. On further perusal of the record would show that on 21.08.2018, PW-1 was present, but the case was adjourned on joint request for cross-examination of the witnesses through Local Commissioner. Mr. Surinder Singh, Advocate was appointed as Local Commissioner. PW-1 was partly cross-examined and the case was adjourned for further cross-examination of PW-1 and for remaining PW's for 05.09.2018. On 05.09.2018, both the parties made joint statement that there were chances of compromise. The case was adjourned for 20.09.2018, 06.10.2018 and 20.10.2018 for the said compromise. In the order dated 20.10.2018, it was noticed that compromise could not be effected and the case being under the action plan was adjourned for the evidence of the plaintiff for 31.10.2018. On 31.10.2018, the case was adjourned at the request of the plaintiff on the premise that last and final opportunity be given to the plaintiff for getting the compromise effected between the parties as there were bright chances of

compromise between the parties. The case was adjourned for 14.11.2018 and 21.11.2018 i.e. the date on which it was recorded by the trial Court that compromise could not be effected and the case was adjourned for cross-examination of PW-1 and for remaining evidence of the plaintiff for 22.11.2018. i.e. the next date.

[6]. On 22.11.2018, an application was filed by the defendant for framing of additional issues. Notice of the application was given to the plaintiff for 03.12.2018. The case remained pending in the context of framing of additional issues on 03.12.2018 and 11.12.2018 i.e. the date on which right to file reply to the application for framing additional issues was dispensed with and the case was adjourned for arguments on the application for framing of additional issues for 20.12.2018. Part arguments were made on 20.12.2018 and the case was further adjourned to 10.01.2019 for remaining arguments on the application. The application was allowed on 10.01.2019 and additional issue No.6-A was framed to the following effect:

“6-A. Whether no cause of action accrue to the plaintiff to file the present suit?”

[7]. Thereafter, the case was adjourned for 17.01.2019 for evidence of the plaintiff. New Advocate appeared on 17.01.2019

and he sought final opportunity for concluding the evidence of the plaintiff on 30.01.2019. On 30.01.2019, lawyers abstained from work and the case was adjourned for 12.02.2019. Again the lawyers kept on abstaining from work on 12.02.2019 and the case was adjourned for 22.02.2019. Learned counsel for the plaintiff undertook to conclude evidence of the plaintiff on the next date i.e. 06.03.2019, but could not conclude on 06.03.2019 and the evidence of the plaintiff was closed by order.

[8]. Perusal of the aforesaid interlocutory orders on record would show that it was not on account of sole negligence on behalf of the plaintiff(s) that they could not conclude their evidence. After framing of issues on 14.07.2015, the case remained pending for different purposes including the amendment, the application under Order 18 Rule 17 CPC filed by the defendant, for examination of PW's, for compromise between the parties on the basis of joint statements, on the application of the defendant for framing additional issues and for further effort to effect compromise by the plaintiff.

[9]. During course of arguments, it transpired that the case is still at the stage of leading evidence by the defendant. Four PWs are to be cross-examined by the defendant namely Jatinder Singh, Jeet Singh, Surinder Nath and Chander Parkash.

[10]. In view of facts and circumstances of the case, I deem it appropriate to grant one and last opportunity to the plaintiff(s) to conclude their evidence at their own responsibility without availing the process of the Court that too subject to payment of costs of Rs.15,000/- to be paid to the respondent in each case. Consequently, both the revision petitions are allowed. Impugned order(s) passed by the trial Court are set aside.

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

September 30, 2019

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No