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

**Civil Revision No.11628 of 2018 (O&M)
Date of Decision: 04.04.2019**

**Prabhu Dass (Since deceased) through LRs
....Petitioners**

Vs

**Digamber Singh
....Respondent**

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Pardeep Singh, Advocate for
Mr. Amrainder Singh, Advocate
for the petitioners.

Mr. Shiv Kumar, Advocate and
Mr. A.K. Ramolia, Advocate
for the respondent.

RAJ MOHAN SINGH, J. (Oral)

[1]. This revision petition has been preferred against the order dated 30.11.2018 passed by the Addl. Civil Judge (Sr. Divn.) Faridabad, vide which the evidence of the defendants/petitioners was closed by order of the Court.

[2]. Perusal of the impugned order would show that on 30.11.2018, Clerk from the office of D.T.P. was present in the Court and learned counsel for the defendants submitted that he would examine the witness shortly. Thereafter, learned counsel for the defendants did not turn up. The witness kept on waiting

till 1.00 p.m. and thereafter left the court premises without intimation. Earlier, last opportunity was granted on 22.11.2018 and the same was extended on 26.11.2018 and ultimately the case was fixed for 30.11.2018 i.e. the date on which the impugned order came to be passed.

[3]. Perusal of the aforesaid order would further show that the witness was in fact present in Court at 10.15 a.m., but he was not examined by the counsel on the pretext that he would come to examine the witness very shortly. Thereafter witness kept on waiting till 1.00 p.m. and ultimately left the Court premises and the counsel for the defendants waited upto 4.25 p.m.

[4]. It appears from the record that there was some communication gap between the witness and counsel for the defendants and owing to that situation, the impugned order came to be passed in the light of last opportunity granted on earlier occasions.

[5]. At the time of issuance of notice of motion on 18.12.2018, learned counsel for the petitioners very fairly admitted that there was an omission on the part of the defendants in not examining the Clerk on the date fixed, but the plaintiff can be compensated with adequate costs for the said omission on behalf of the defendants.

[6]. Having heard learned counsel for the parties, I am of the view that since the procedure is handmaid of justice and there was some mis-communication between the witness and counsel for the defendants on 30.11.2018, therefore, I deem it appropriate to grant one last opportunity to the defendants to conclude their evidence on the next date of hearing or on a date to be fixed by the trial Court after due notice to the opposite party. Consequently, this revision petition is allowed. Impugned order dated 30.11.2018 passed by the Addl. Civil Judge (Sr. Divn.) Faridabad is set aside, however subject to payment of costs of Rs.15,000/- to be paid to the plaintiff.

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

April 04, 2019

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No