

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 384 of 2020 (O&M)

Date of Decision: 6.2.2020

Kanwarjeet Singh

...Petitioner

Vs.

Ravinder Arora

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Sanjay Verma, Advocate
for the petitioner.

RAJIV NARAIN RAINA, J. (Osral)
CM No. 1978-CII-2020

CM is allowed as prayed.

Curative affidavits are taken on record to be read as part of
the petition at the proper place.

CR No. 384 of 2020

1. Mr. Hardeep Singh Kasan, Advocate puts in appearance on
behalf of the respondent with his power of attorney. The same is
retained on record.

2. Heard.

3. This is a case for dismissal in *limine*. I have reasons for it.
This petition suffers from suppression of material fact in the petitioner-
defendant concealing cleverly two vital things in the petition which are
deadly against him. One is the order of the learned Additional Civil
Judge (Senior Division) Guhla dated 8.1.2018 in the present suit and the

second is the compromise entered into between the plaintiff and the defendant in the trial court duly recorded. These two turning points were withheld to gain an advantage in *katcha peshi*. The order dated 8.1.2018 reads as follows:

“File put up today on an application moved on behalf of plaintiff with the averments that the parties to the present suit have reached a compromise with the intervention of respectable of the society. Both the parties, plaintiff and defendant have appeared and have stated that as per compromise Ex. C1 the parties have entered into a compromise and that being so they do not want to pursue the present suit and withdraws the same. Both the parties have got recorded their separate statement as regards their compromise. Defendant Kanwarjeet Singh has further stated that he has no objection if court fees is refunded to the plaintiff. Plaintiff and defendant are duly identified by their counsels.

Heard. In view of aforesaid statements, present suit is hereby dismissed as withdrawn. Both the parties are bound down by their compromise Ex. C1. Court fees be refunded to plaintiff as per Provision of Legal Service Authority Act. Certified copy of stamp papers be placed on file. File be consigned to the record room after due compliance.”

4. The compromise in the vernacular, a certified copy of which is produced by Mr.Kasan for the plaintiff respondent is taken on record as Mark 'A' and certified copy of order dated 8.1.2018 of Addl. Civil Judge (Sr. Divn.) Guhla dismissing the suit as withdrawn on the basis of the compromise is at Mark 'B'.

5. This petition has been filed assailing the order of the Additional Civil Judge, Senior Division, Guhla dated 9.1.2020 closing

the evidence of the petitioner by court order. It has been recorded in the order that the case for cross-examination of DW1(defendant in the suit and the petitioner in the present petition) including production of the remaining evidence of the defendant was liable to be closed because he failed to produce his evidence. Neither did DW1 nor any other DW turn up for recording their testimonies despite last opportunity granted. Counsel for the defendant made a casual statement on the date of hearing requesting a further date, but that oral prayer was strongly opposed by the plaintiff. Left with no other option, the trial Court closed the evidence and posted the matter for rebuttal evidence, if any, and arguments.

6. It is apparent that respondent has taken the Court for a ride for a sufficiently long time and does not deserve any sympathy from this Court in his prayer for setting aside a perfectly justified and good order passed in the facts and in the circumstances presented before him while taking into consideration the improper conduct of the petitioner-defendant. The Judge is not wrong as the conduct is reprehensible in dodging the Court at every opportunity he had received earlier to do the needful. The trial was needlessly delayed. Even the two repaired affidavits that have been taken on record today sworn by the petitioner were not notarized when the petition was filed. This also reflects his conduct by adopting foul means to prolong the litigation.

7. The petitioner is clearly in breach of the undertaking given

to the trial Court that he would produce his evidence and, therefore, the litigation is being protracted even when money is owed by the petitioner to the defendant which is subject matter of the suit. The timely intervention of Mr. Kasan has saved much time of the court by bringing to its notice two of the crucial documents, without knowledge of which I may have been persuaded to issue notice of motion to the respondent. The petitioner has thus overreached the court.

8. Accordingly, this petition is dismissed with costs of Rs.25,000/- to be paid to the plaintiff-defendant on the next date of hearing in the trial Court or any other date fixed by it, failing which he can be held liable for committing contempt of this court by hiding from it the judicial order and the compromise and attempting to overreach the court by procuring an *ex parte* notice to the respondent, a situation which has been averted by the timely intervention by the plaintiff watching the proceedings today.

(RAJIV NARAIN RAINA)
JUDGE

6.2.2020

kv

Whether speaking/reasoned : *Yes*
Whether reportable : *Yes/No*