

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

CR No.594 of 2020 (O&M)

Date of decision: 27th October, 2021

Keshav Kumar

... Petitioner

Versus

Piccadilly Agro Industries Ltd. & another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Anurag Jain, Advocate for the petitioner.

None for the respondents.

FATEH DEEP SINGH, J.

The matter has been taken up through video-conferencing on account of outbreak of pandemic COVID-19.

Earlier the present petitioner (then plaintiff) Keshav Kumar filed a suit against then defendants Piccadilly Agro Industries Ltd. (now respondents) for recovery of ₹ 8,34,647/- along with interest etc. It was during the course of time, the suit was assigned to the Court of learned Civil Judge (Junior Division), Bhiwani on 02.01.2017 on which date notice of the suit was issued to the defendants for 01.04.2017. On the said date, the Court passed the following orders:-

*“Present: Sh.D.N. Saini, Counsel for plaintiff.
None for defendant.*

*Notice issued to defendant received
back duly served. Case called several times since
morning, but none appeared on behalf of
defendant. It is already 12:30 p.m. Waited*

sufficiently. No further wait is justified. Accordingly, defendant is hereby proceeded against ex-parte.

Put up on 13.07.2017 for ex-parte evidence of plaintiff.”

The petitioner upon closure of his ex-parte evidence, moved an application seeking permission to lead additional evidence whereby he preferred to examine the office records of Vat Tax Returns, Audited Balance-sheet and certificate of Chartered Accountant, and also to examine official of the Sale Tax Department and the concerned official from the Union Bank of India. The Court vide impugned order (Annexure P5) dated 13.12.2019 dismissed the application and that is how the present revision petition has come about.

None appeared on behalf of the respondents in spite of due service of notice.

Upon hearing learned counsel for the petitioner and perusal of the records. The defendants in the said suit did not put in appearance and the matter was posted for ex-parte evidence of the plaintiff and which was closed on the statement of learned counsel for the plaintiff on 20.09.2017. It is thereafter, the plaintiff moved the application in question. The suit was instituted in the year 2017 and was listed for ex-parte arguments on 12.12.2017 when the application in question was moved, thus, it is reflected that there was no inordinate delay which could have necessitated the trial Court to have proceeded ahead in haste. Moreover, it was an ex-parte evidence concerning official records of Government Department of which certified copies could have been easily placed on record and not much delay in the proceedings would have

come about necessitating the Court to decline the prayer of the petitioner. The trial Court in the impugned order, merely on the grounds that the plaintiff did not exercise reasonable due diligence on account of wrong legal advice by his previous counsel, certainly is misconstruing the purpose of law. That a party who is not well conversant with the legal procedure and needs to be shown compassion and such a minor ill-advice could be easily rectified by allowing the examination of such Govt. record, the veracity of which could not be put to doubt by any means. How the Court has jumped to the conclusion that the plaintiff is intending to fill-up the lacuna in his case, does not cut much ice, especially when it was ex-parte evidence and none of the witnesses has been either cross-examined. What appears is that the Court below was in an undue haste to dispose off the matter rather than intending to do justice to the parties, which is not the purpose of law and the process of dispensation of justice. The Court needs to have acted magnanimous and shown a big heart to such inconsequential matter. No prejudice is likely to be caused if such official records are brought in the evidence of the case. The impugned order is perverse and needs to be set aside by way of acceptance of the instant revision petition. The trial Court is directed to proceed ahead into the matter as per law.

The petition stands allowed in those terms.

(FATEH DEEP SINGH)
JUDGE

October 27, 2021

rps

Whether speaking/reasoned Yes/No

Whether reportable Yes/No