

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

113

CR No.2679 of 2021 (O&M)
DATE OF DECISION : 10th NOVEMBER, 2021

Gurjit Singh

.... Petitioner

Versus

Kamaljit Chauhan

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Anil Kumar Garg, Advocate for the petitioner.

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RAJBIR SEHRAWAT, J. (Oral)

This is a revision petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 19.10.2021 (Annexure P-3) passed by the Additional Civil Judge (Senior Division), Patiala, whereby the evidence of the petitioner/plaintiff has been closed by order, with a further prayer that an effective opportunity may be granted to the petitioner for producing his witnesses for the purposes of their cross examination by the counsel for the defendant/respondent as the affidavits of the plaintiff witnesses have already been tendered in examination-in-chief.

It is submitted by the counsel for the petitioner that the petitioner had started his evidence in the right earnest. PW-1 Gurjit Singh

was being presented repeatedly for cross-examined. However, the other side had taken several dates to cross-examine him. In the meantime, there was onset of the Covid-19 pandemic. Because of the unfortunate situation of the pandemic, the witnesses of the petitioner, though examined in chief, could not come present before the Court for cross-examination. Still further, it is submitted that the default in producing the witnesses before the Court was not intentional. The same happened on account of the unfortunate prevalent situation of uncontrollable Covid-19 pandemic. The counsel has further submitted that the petitioner would produce all the witnesses on a single date for being cross examined by the other side. Hence, it is submitted that the petitioner be granted at least one opportunity to lead his evidence.

A bare perusal of the paper book shows that the petitioner has availed several opportunities to complete his evidence. The trial Court has rightly recorded that lot many opportunities have been granted to the petitioner to complete his evidence as a plaintiff in the suit. However, it cannot be overlooked that about one third of those opportunities had been wasted because of the adjournment sought by the other side also. Otherwise also, since the unfortunate situation of pandemic remained prevalent for a long time, therefore, the petitioner deserves some extra time to complete his evidence. Moreover, in case of option for the Court to choose between the substantial justice and the technicalities of the procedure, the Court has to lean towards the interest of the substantial justice. Therefore, it would not be unjustified to grant one more opportunity to the petitioner to complete his evidence, however, by putting him to an appropriate financial burden.

In view of the above, the present revision petition is disposed of by setting aside the impugned order; and with a further direction to the trial Court to grant one more effective opportunity to the petitioner to complete his evidence by producing the relevant witnesses for cross-examination or otherwise. However, this opportunity shall be subject to payment of ₹25,000/- as costs, to be deposited with the Institute for Blind, Sector-26, Chandigarh, within a period of 10 days from today.

It is clarified that the trial Court shall grant the above said opportunity to the petitioner only on production of the receipt before it qua the costs having deposited, as ordered above.

10th NOVEMBER, 2021
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(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>