

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

CR-3217-2021
Date of Decision: 10.12.2021

HARDIAL SINGH

...Petitioner

Versus

GURPREET SINGH AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Sarabjeet Singh, Advocate
for the petitioner.

(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

Petitioner assails an order dated 04.10.2021 (Annexure P-9) passed by learned Civil Judge (Junior Division), Hoshiarpur, vide which the evidence of petitioner/defendant No.4 has been closed by order of the court and also the order dated 01.12.2021, vide which, the application for recalling of order dated 04.10.2021 has been dismissed.

2. Learned counsel for the petitioner contends that the trial Court has rather taken a harsh view of the counsel being unavailable on the date when the evidence was closed, despite being informed that the counsel was suffering from Dengue and was unable to assist the Court on that date. That apart, he submits that the trial Court has wrongly noted that 19 opportunities were given to defendant No.4 to adduce evidence and yet, it was not concluded on the ground that the counsel was un-well.

3. A perusal of the order sheet would reflect that most of the said 19 opportunities were partly attributable to non-disposal of an application

filed by defendant No.4, whereby he had prayed to the trial Court that handwriting expert be examined in order to adjudicate on the veracity of the agreement to sell, which is alleged to be forged and fabricated as per defendant No.4. He argues that on one hand, the said application was kept pending and on the other hand, as a bolt from the blue, evidence was closed stating that the defendant had failed to do so despite ample opportunities. He further submits that petitioner will suffer irreparable loss if the petitioner is not allowed to examine the handwriting expert.

4. Elaborating further, learned counsel argues that impugned order has resulted in grave miscarriage of justice. For effective and proper adjudication of the case on its merits, the petitioner be permitted to examine the sole remaining witness.

5. I have heard learned counsel for the petitioner and perused the case file.

6. Rules of procedure are handmaids of justice and cannot be allowed to thwart real and substantial justice between the parties. According to learned counsel, no prejudice would be caused to the plaintiffs if the defendant is permitted one opportunity to examine the hand writing expert.

7 Given the nature of order being passed, there is no necessity to issue notice to the respondents as no prejudice would be caused to them. Notice to the respondents is dispensed with.

8. I deem it appropriate to grant one more opportunity to the petitioner to examine the handwriting and fingerprint expert Sh. Kranti K. Sharma, subject to payment of costs of Rs.10,000/-.

9. In the premise, the instant revision petition is allowed. Impugned order dated 04.10.2021 (Annexure P-9) is set and subject to

payment of Rs.10,000/- as costs. Petitioner shall be allowed one final opportunity to produce the sole witness, Sh. Kranti K. Sharma. It is, however, made clear that in case the petitioner fails to produce the said witness on the date given by the trial Court, no further time shall be granted and the Court below shall proceed in accordance with law.

10. By way of imposition of costs, the petitioner shall plant 100 trees of deciduous and perennial in nature, of any variety viz. Neem, Amla, Gulmohar and/or Alstonia, in the neighbourhood, where he resides. Plantation shall be carried out under the supervision of the District Horticulture Department. In case, the petitioner defaults in doing so, liberty is granted to the Registry to place the matter before this Court to report non-compliance thereof. Proof of plantation to be furnished by the petitioner in the Registry of this Court, along with supporting letter from the horticulture department, to be placed before this Court upon receipt thereof.

December 10, 2021
gurpreet

(ARUN MONGA)
JUDGE

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