

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

Sr. No.122

CR-3329-2021

Date of Decision: 21.12.2021

LAKHVIR SINGH

... Petitioner

VERSUS

PIARA SINGH

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mohd. Salim, Advocate,
for the petitioner.

ARCHANA PURI, J (ORAL)

The matter has been taken up through video conference in the light of Covid-19 pandemic.

The present civil revision petition has been filed by the petitioner, namely, Lakhvir Singh, for setting aside the impugned order dated 27.01.2020 passed by the Court of Civil Judge (Jr. Divn.), Malerkotla, whereby the evidence of the petitioner/plaintiff had been closed.

It is now submitted by learned counsel for the petitioner that the petitioner had filed a suit for seeking declaration and issuance of permanent injunction and the copy of the plaint is annexed as Annexure P-1. However, when the case was fixed for recording of the evidence of the plaintiff due to the prevailing Covid-19 situation, he could not pursue his civil suit and therefore, no evidence was led

by him. Learned counsel further submits that the evidence of the petitioner has been wrongly closed by the order passed by the learned Civil Judge. As such, learned counsel for the petitioner has made a prayer for setting aside the impugned order dated 27.01.2020, which is reproduced in verbatim:

*“Present: Sh.M M Sheikh, Adv Counsel for plaintiff.
Sh. R.K.Singla, Adv Counsel for defendant.*

*No PW is present. Adjournment requested.
Careful perusal of file reveals that several time costs of Rs.200/-, Rs.1,000/-, Rs.500/- and Rs.1,000/- totaling to Rs.2700/- imposed on plaintiff for not producing PW. Perusal of the file further reveals that plaintiff have availed sufficient opportunities and had already gives two undertakings to conclude its evidence, but in vain. The court does not find any reason to grant any further opportunity to the plaintiff in the regard. Accordingly, evidence of plaintiff is hereby closed by order. Let, case be adjourned to 27.02.2020 for evidence of defendant.*

It is pertinent to mention that from the perusal of the zimini orders, which have been annexed with the petition, it is evident that the suit was filed and was firstly taken up by the Civil Judge on 16.07.2018 and after completing of the pleadings, the case was fixed for evidence of the plaintiff. The petitioner has not attached complete zimini orders. Rather, he has chosen only to produce the zimini orders in bits and pieces. One such order dated 28.02.2019 states that no PW was present and the case was adjourned to 29.03.2019 for PWs. However, it is pertinent to note that in the impugned order dated 27.01.2020, it has been specifically observed by the learned Civil Judge that several times costs of Rs.200/-, Rs.1,000/-, Rs.500/- and Rs.1,000/- totaling to Rs.2700/- was imposed upon the plaintiff for not producing the PWs. Furthermore, it has also been observed in the impugned order, that the plaintiff had availed several

opportunities and had also given two undertakings to conclude evidence, but in vain. This itself reveals that despite imposition of the costs several times and undertakings given, no efforts were made to lead evidence.

In view of the recitals of this order, it cannot be concluded that due to Covid-19 situation, the plaintiff was not in a position to produce the evidence. Rather, the zimini order dated 28.02.2019 reveals that the case was fixed for recording of the evidence of the plaintiff much before the oncome of Covid-19 pandemic. Even, thereafter, despite having given the undertakings and imposition of costs, the petitioner had failed to conclude the evidence.

Therefore, considering all the aforesaid circumstances the learned lower court under compelling circumstances, had closed the evidence of the petitioner. Thus, there is no merit in the present revision petition and the same is hereby dismissed.

(ARCHANA PURI)
JUDGE

21.12.2021
Sonu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No