

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 77 of 2019

Date of Decision: 21.09.2022

Ranjit Singh and Others

... Petitioner(s)

Versus

Jang Singh and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Ramandeep Singh Pandher, Advocate
for the petitioner(s).

Mr. Rakesh Chopra and Mr. Jashan Chopra, Advocates
for the respondents.

Anil Kshetarpal, J.

1. The petitioners herein are the defendants in a suit filed for grant of decree of declaration with respect to ownership of the immovable property.

2. After the plaintiffs and defendants have led their affirmative evidence, an additional issue on the correctness and validity of the Will dated 17.02.1987 was framed, the onus whereof was on the defendants.

3. Thereafter, on the request of the plaintiffs to lead rebuttal evidence, plaintiff No.2-Sh. Amrik Singh appeared and tendered his affidavit in lieu of his examination-in-chief. The defendants have filed a Civil Revision No. 6744 of 2018 before the High Court questioning the correctness of the order passed by the trial Court permitting the plaintiffs to lead rebuttal evidence. The revision petition came up for preliminary hearing

“CM No.21718-CII of 2018

Allowed as prayed for.

CR No.6744 of 2018

Learned counsel contends that civil suit was filed for declaration that Will dated 17.08.1987 was null and void. However, the respondent-plaintiff led evidence in affirmative qua Will dated 17.02.1987 and thereafter closed evidence, after which, the petitioner-defendant led evidence and closed his evidence. Learned counsel contends that respondent-plaintiff having led evidence in affirmative and closed evidence, therefore, it was not open to the respondent-plaintiff to lead evidence in respect of Will dated 17.08.1987 in rebuttal.

Notice of motion for 13.11.2018.

In the meantime, learned trial Court to defer the proceedings listed before it on 08.10.2018 to a date beyond the date fixed before this Court.”

4. Before the revision petition came up for final hearing, the learned counsel representing the defendants made a request to the trial Court to adjourn the case claiming that the case file has already been sent to the lawyer in the High Court for filing the revision petition. However, the trial Court has closed the defendants’ opportunity to cross-examine the witness. Assailing its correctness, the present revision petition has been filed.

5. Heard the learned counsel representing the parties, at length and with their able assistance, perused the paper-book.

6. Undoubtedly, many a times, unnecessary attempts are made to delay the disposal of the suits, however, the civil litigation, in general also, is lengthy, complex and time consuming. In every civil suit, the procedure

prescribed in the Code of Civil Procedure, 1908, is required to be followed. Even if the learned counsel representing the defendants was trying to delay the proceedings, however, it cannot be overlooked that in the revision petition, subsequently, the interim order was passed.

7. Plaintiff No.2-Sh.Amrik Singh is an important witness. If the defendants are not granted an opportunity to cross-examine him, they are likely to suffer serious prejudice. It is well settled that the rules of procedure are handmaid of justice. Moreover, the defendants cannot be punished for the fault of their lawyer. Furthermore, plaintiff No.2-Sh.Amrik Singh is a local resident, who can be cross-examined with minimum inconvenience.

8. Keeping in view the aforesaid facts, the trial Court is directed to grant an opportunity to the defendants to cross-examine the plaintiffs, subject to payment of cost of ₹5,000/- which shall be payable to the plaintiffs by way of a demand draft. Let the trial Court fix a date for appearance of the plaintiff No.2 to face cross-examination. However, the trial Court is directed to finally conclude the proceedings in the suit, positively, within a period of three months, from today.

9. With the observations made above, the present revision petition is disposed of.

(Anil Kshetarpal)
Judge

September 21, 2022

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No