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

**CR No.5107 of 2018 (O&M)
Date of decision : 12.05.2022**

Khushi Ram

....Petitioner

Versus

Karan Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Brijender Kaushik, Advocate
for the petitioner.

Mr. Satpal Bhasin, Advocate for
Mr. Harkesh Manuja, Advocate
for the respondent.

PANKAJ JAIN, J. (ORAL)

Under present revision petition challenge is to order dated 30th
May, 2018 (Annexure P-1) passed by the Ld. Civil Judge (Senior Division),
Panipat whereby evidence of the plaintiff is ordered to be closed.

2. Plaintiff is in revision. Parties herein after will be referred as
per their original position before the Ld. Trial Court in order to avoid
confusion.

3. The impugned order reads as under :-

*“No evidence of plaintiff is present despite last
opportunity. Further adjournment sought. From the perusal
of the case file, it reveals that learned Counsel for plaintiff has*

availed twelve effective opportunities including last opportunities, but failed to conclude its entire evidence. There is no justification to adjourn the case for said purpose. As such the evidence of plaintiff is closed by Court orders. To come up on 11.07.2018 for evidence of defendants at own responsibility.”

4. Ld. Counsel for the plaintiff does not dispute the factual position as recorded in the impugned order but submits that the attesting witnesses to the agreement to sell having resiled, the only way to prove the agreement to sell, in question left with the plaintiff is by way of examining the handwriting expert. Thus, it will be in the interest of justice that one opportunity be granted to the plaintiff to produce the same.

5. It was recorded by this Court in the order dated 20th of November, 2019 that the evidence on behalf of the defendant is yet to start. Only affidavit has been tendered as examination-in-chief defendant's and the witnesses have not been cross-examined as yet.

6. Ld. Counsel for the defendant does not dispute the said fact and submits that the position remains the same even today, as now also the matter is fixed for cross-examination of the witnesses for 19th of May, 2022.

7. In the considered opinion of this Court it will be in the interest of justice that the plaintiff is granted one opportunity to lead evidence in form of handwriting and fingerprint expert. It is trite that laws of procedure are meant to regulate effectively, assist and aid the object of doing substantial and real justice and not to foreclose even an adjudication on

merits of substantial rights of citizen as laid down by Apex Court in the case of S. Amarjit Singh Kalra (dead) by L.Rs. and others vs. Smt. Pramod Gupta (dead by L.Rs. and others, 2003(3) SCC 272. Without commenting upon the merits of the impugned order, the same is hereby set aside.

8. In order to balance the equities the present petition is allowed subject to payment of Rs.20,000/- as costs to be paid to the respondent/defendant before the petitioner/plaintiff avails the opportunity to lead the evidence as prayed for in the revision.

May 12, 2022
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No