

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

205

CR No.7258 of 2018 (O&M)
DATE OF DECISION : 07th JANUARY, 2022

Rameshwar Sharma

.... **Petitioner**

Versus

Ved Wati and others

.... **Respondents**

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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In virtual Court

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Present : Mr. Ashok Bhardwaj, Advocate,
for the petitioner.

None for respondent Nos.1 to 8.

Mr. Navneet Singh, Advocate,
for respondents No.9, 10 & 14.

Mr. Ashwani Gaur, Advocate,
for respondents No.11 to 13.

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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 order dated 13.09.2018 (Annexure P-12) passed by the Civil Judge (Senior Division), Sonipat (for short, the trial Court), whereby plaintiffs evidence has been closed by order.

As per the office report, respondent No.4 stands served.

However, there is no representation on behalf of the said respondent.

It is submitted by the counsel for the petitioner that although there have been delay in completion of the evidence of the petitioner, who is the plaintiff in the suit, however, the delay has not been intentional on the part of the petitioner. In fact, the mother of the petitioner was ill and subsequently she succumbed to the said illness. This resulted in a situation because of which the petitioner could not avail even the last opportunity granted by the trial Court. Hence, the petitioner deserves to be granted another opportunity to complete the evidence.

On the other hand, the counsels for respondent Nos.9 to 14 have submitted that the petitioner has already wasted sufficient time of the Court. The delay on the part of the petitioner is deliberate. The trial Court had even mentioned in the previous orders that it would be the last opportunity for the petitioner to lead the evidence, however, still no evidence was led by the petitioner. Hence, the present petition deserves to be dismissed.

Having heard the counsel for the parties and having perused the case file, this Court finds that the petitioner has already availed as many as eight opportunities to lead the evidence, including the last opportunity which was specifically mentioned as such by the Court below. There may have been problems with the petitioner, however, that cannot be made a ground for not leading the evidence even on several opportunities. Hence, this Court does not find any patent infirmity with the order passed by the Court below; as such.

However, it is settled law that the procedural law is handmade to facilitate the disbursal of the substantial justice. Therefore, it is the interest of substantial justice, which has to prevail over the

procedural aspects; in case of conflict between the two. Since, the petitioner is the plaintiff in the suit, therefore, if he is not granted any more opportunity to lead the evidence, then his case can be seriously prejudiced. Accordingly, it would be appropriate to grant the petitioner one more opportunity to lead whatever evidence he wants to lead, however, by putting him to some appropriate financial burden.

In view of the above, the present revision petition is allowed. The order passed by the Court below is set aside and the trial Court is directed to grant one more effective opportunity to the petitioner to lead the evidence. This opportunity is, however, subject to payment of ₹10,000/- as costs, which is ordered to be deposited with District Legal Services Authority, Sonipat, within a period of 15 days from today.

It is further clarified that the opportunity to lead the evidence shall be granted to the petitioner by the trial Court only on production of the receipt before it qua the costs having been deposited by him, as ordered above.

07th JANUARY, 2022
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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>