

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

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**CR-2060-2020
Decided on : 21.04.2022**

Simranjit Singh

... Petitioner(s)

Versus

Jagir Singh and others

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Bhavesh Aggarwal, Advocate
for the petitioner(s).

MANJARI NEHRU KAUL, J. (Oral)

The instant revision petition has been preferred by the petitioner under Article 227 of the Constitution of India, seeking setting aside of the order dated 10th January, 2020 (Annexure P-3), passed by the learned Civil Judge (Jr. Divn.), Gurdaspur, in Civil Suit No. 740 of 2017, vide which the evidence of the petitioner/defendant, was closed by order. A further prayer has also been made for setting aside of the order dated 16.03.2020 (Annexure P-6), vide which the application moved by the petitioner/defendant for recalling of the order dated 10.01.2020 (Annexure P-3) and for permission to lead evidence, was declined by the learned Court below.

Learned counsel *inter alia* contends that the petitioner/defendant was unable to lead his evidence, as his counsel before the Court below, was unwell. He submits that in the circumstances, the petitioner cannot be faulted with and made to suffer on account of the absence of his counsel due to health reasons. It has been submitted that *prima facie* the petitioner/defendant has a good case in his favour and he would suffer irreparable loss, if the impugned orders are not set aside.

I have heard learned counsel for the petitioner and perused the relevant material on record, including the zimni orders, which have been annexed as Annexure P-2A to P-2F, respectively.

The suit for permanent injunction restraining the petitioner/defendant, their agents etc. from alienating the suit property was instituted by the respondent/plaintiff on 20th June, 2017. A bare perusal of the zimni orders from 24.09.2019 to 17.12.2019 (Annexures P-2A to P-2F), reveals that after the counsel for the respondent/plaintiff closed evidence on 06.09.2019, the Court below adjourned the case for recording the defendant's evidence for 24.09.2019. However, on the said adjourned date, the petitioner/defendant did not lead any evidence and hence, on request of the petitioner/defendant, the case was adjourned for 14.10.2019 for the defendant's evidence. However, yet again, the petitioner/defendant requested for an adjournment on 01.11.2019 followed by another request on 13.11.2019. On 13.11.2019, the Court below granted another adjournment to the petitioner/defendant, which was, however, subject to the payment of costs. Thereafter, the case was adjourned to 05.12.2019. However, yet again neither did the petitioner/defendant lead his evidence, nor did he deposit the cost imposed upon him. The Court then again granted the petitioner/defendant another opportunity, however, even on the next date of hearing i.e. 17.12.2019, neither any evidence was led by him nor costs paid. Finally, the Court adjourned the case for 10.01.2020 by closing the evidence of the defendant by order.

The submissions made by the learned counsel that due to the absence of his counsel, the petitioner/defendant was unable to lead his evidence is bereft of any merit. A perusal of the zimni orders, which have been annexed as Annexures P-2A to P-2F along with the present revision

petition, reveal that the petitioner/defendant was duly represented by his counsel on each and every date of hearing. The court was magnanimous in granting him numerous opportunities to lead evidence including a couple of last opportunities before closing his evidence by order, however, he failed to do so and did not even deposit the costs imposed.

No doubt, in non-commercial suits, the stipulated time i.e. of 30 days to file written statement/defense as the case may be, can be extended to 90 days. However, it should be done only in exceptional cases. In the case in hand, however, the learned counsel has failed to satisfy this Court *qua* any such exceptional ground rather due to the conduct of the petitioner/defendant, it is discernible that there has been an inordinate delay in the conclusion of the trial. It is apparent that the petitioner/defendant was engaging in delaying tactics.

This Court, therefore, has no hesitation in upholding the impugned order dated 10.01.2020 (Annexure P-3) passed by the learned Civil Judge (Jr. Divn.), Gurdaspur, vide which the evidence of the petitioner was ordered to be closed as well as the order dated 16.03.2020 (Annexure P-6), vide which the application of the petitioner/defendant seeking permission to lead their evidence and recalling of the order dated 10.01.2020 (Annexure P-3), was dismissed.

Consequently, the revision petition being devoid of any merit, stands dismissed in *limine*.

(MANJARI NEHRU KAUL)
JUDGE

April 21, 2022

J.Ram

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No