

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

131

CR-2199-2022

Date of decision: 30.05.2022

Sub Divisional Officer (Operation),
U.H.B.V.N.L., Panipat

.....Petitioner

Versus

Randeep and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Rajesh Bansal, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is impugning the order dated 08.04.2022, passed by the learned Additional Civil Judge (Sr. Divn.), Panipat, vide which evidence of the petitioner was closed by Court order. In addition, the petitioner is also seeking the setting aside of the order dated 11.05.2022 (Annexure P-2) vide which an application moved by the petitioner for granting opportunity to lead and conclude its evidence was also dismissed.

Learned counsel for the petitioner *inter alia* contends that the petitioner/defendant was unable to appear and adduce evidence on the date fixed before the trial Court as inadvertently the official concerned had wrongly noted that the case was fixed for plaintiff evidence instead of noting that it was actually fixed for defendants' evidence. He submits that by the time the petitioner learnt about the factual position that, in fact, the case was fixed for defence evidence, considerable time had elapsed. He further submits that no doubt that second opportunity too had been granted by the Court concerned,

however, after 05.01.2022 some of the witnesses were transferred out and they were unable to attend the Court proceedings as they were on urgent duties at their respective places of posting. He submits that one last effective opportunity be granted to the petitioner for adducing its evidence.

I have heard learned counsel and perused the material on record.

Admittedly the petitioner was granted sufficient opportunities to lead its evidence, but it failed to do so.

However, in view of the submissions made by the learned counsel for the petitioner, this Court is of the opinion that the failure of the petitioner to lead its evidence was not intentional. If the petitioner is not granted one more opportunity to lead its evidence, it would suffer irreparable loss which in turn would result in miscarriage of justice. Therefore, for just and proper adjudication of the case, this Court deems it appropriate to grant one last effective opportunity to the petitioner to lead its evidence.

In the wake of the above, without issuing notice to the respondents, to avoid any further delay as well as expenses which respondent No.1 shall have to incur to defend these proceedings, the impugned orders dated 08.04.2022 and 11.05.2022, are set aside. The instant revision petition is allowed in the following terms:-

1. The petitioner is granted one last effective opportunity to lead its evidence.
2. In the event of default by the petitioner, the case shall not be adjourned any further for leading its

evidence and consequently its evidence shall be deemed to be closed by Court order.

3. This, however, shall be subject to payment of costs in the sum of Rs.15,000/- to be paid to respondent No.1 which shall be a condition precedent.

30.05.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No