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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CR-3335-2022 (O&M)****Date of Decision: 23.08.2022**

Madan Lal and another

..... Petitioners

Versus

Satish

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present:- Mr.Ashish Grewal, Advocate for the petitioners.

HARKESH MANUJA, J.

The present petition has been directed against the order dated 28.07.2022; whereby the evidence of petitioners/ tenants has been closed by Court order.

It has been contended by learned counsel for the petitioners that sufficient opportunity has not been granted to them to conclude their evidence which has resulted into serious prejudice to their rights. Learned counsel also refers to the zimni orders dated 23.05.2022, 25.05.2022, 12.07.2022 as well as impugned order dated 28.07.2022 to contend that the non-examination of the evidence on their part was neither intentional; nor willful, but had occurred on account of bonafide reasons as on one day their counsel was not feeling well and on another day, the members of the District Bar Association, Jagadhri (Yamuna Nagar) suspended the work and as such they could not conclude their evidence.

The impugned order arises out of the proceedings carried out in pursuance to the eviction petition filed at the instance of

respondent/landlord. The zimni orders as well as the impugned order shows that though the petitioners were granted 13 effective opportunities to conclude their evidence as depicted in the order dated 28.07.2022, yet considering the fact that the petitioners are tenants in an eviction petition filed at the instance of respondent/landlord, in the interest of justice, the petitioners are afforded one last effective opportunity to conclude their evidence. In case the impugned order is allowed to sustain, petitioners/ tenant will suffer serious prejudice and injustice as they will not be able to prove the defence taken by them in their written statement.

A perusal of the zimni orders appended along with the revision petition show that the impugned order whereby the evidence of the petitioners was ordered to be closed never preceded by an order of lesser gravity such as imposition of cost on the petitioners/ tenants.

This Court, in the case of **Prem Chand Vs. Punjab National Bank and others**, reported as 2000 (3) PLR 646, has made the following observations, which also support the cause of the petitioners:-

“The law of procedure is mean to achieve the ends of justice and to do substantial justice with an intention to finally and completely determine the dispute between the parties. It cannot be said that the order of the Court is without jurisdiction. However, the Court could have passed an order which would give complete background of the case with reasons and it may have been more appropriate if the learned trial Court would have passed order of lessor gravity before passing the impugned order. Closing defence of a party is an order of a very serious nature and, therefore, normally should

preceded by order of lessor gravity. In this regard reference can be made to Mool Chand v. Presiding Officer and Anr., (1999-2) 122 PLR 514.”

Keeping in view the aforesaid facts and circumstances as well as for maintaining an equitable balance between the cause of justice and technicalities, the revision petition is allowed and impugned order dated 28.07.2022 (P-1) is hereby set aside by directing the trial Court to grant one effective opportunity to the petitioners/ tenants to conclude their entire evidence at their own responsibility.

In order to balance the equities, the petitioners are burdened with costs of Rs.5000/- to be paid to respondent/landlord on the date fixed before the trial Court.

Keeping in view the nature of proceedings, the present petition is being decided without issuing notice to the respondent-landlord, least it may delay the proceedings initiated at his instance.

August 23, 2022
sanjay

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>