

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

**CR-3573-2022 (O&M)
Decided on:-01.09.2022**

Arun Devi

....Petitioner...

vs.

Yogesh Kumar and others

....Respondents.

CORAM:HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Ms. Vaishali Kamboj, Advocate,
for the petitioner.

HARKESH MANUJA J.(Oral)

CM-11005-CII-2022

Application is allowed as prayed for.

Main case

By way of present revision petition, petitioner-defendant No.1 has impugned the order dated 22.10.2021, whereby, her evidence has been closed by the learned trial court.

2. Learned counsel for the petitioner refers to zimni orders reproduced at page Nos. 9 to 15 of the paper book, to contend that the intermittent opportunities granted to the petitioner for recording of her evidence have gone by during the Covid-19 period when the proceedings in the trial court were going off and on.

3. Learned counsel for the petitioner further contends that in case the impugned order is allowed to stand, she will not be able to contest the claim made by respondents No.1 and 2-plaintiffs in an

effective manner, which shall cause serious prejudice to her rights.

4. I have heard learned counsel for the petitioner and have gone through the zimni orders.

5. Perusal of zimni orders appended along with this petition show that though the petitioner was granted 5 effective opportunities to lead her evidence, however, all these opportunities went passed during the Covid-19 pandemic situation, which cannot be termed to be effective opportunities, resultantly, the petitioner was not able to conclude her evidence.

6. Further, even the zimni orders appended along with the revision petition show that the impugned order whereby the evidence of the petitioner was ordered to be closed never preceded by an order of lesser gravity such as imposition of cost on the petitioner.

7. 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.”*

8. 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 22.10.2021 (Annexure P-5) is hereby set aside by directing the trial Court to grant two effective opportunities to the petitioner to conclude her entire oral as well as documentary evidence at her own responsibility.

9. In order to balance the equities, the petitioner is burdened with costs of Rs.10000/- to be paid to respondents No.1 and 2 on the date fixed before the trial Court.

10. Keeping in view the nature of proceedings, the present petition is being decided without issuing notice to the respondents, least it may delay the proceedings initiated at their instance.

(HARKESH MANUJA)
JUDGE

01.09.2022
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/ No