

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

CR-4540-2022

Date of decision : 18.10.2022

Jaswinder Singh

...Petitioner

Vs.

Sukhjeet Kaur and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

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

MANOJ BAJAJ, J.

Petitioner has filed this revision petition under Article 227 Constitution of India for setting aside the order dated 02.09.2022 (Annexure P-6) passed by Additional Civil Judge (Senior Division), Moga in Civil Suit No.CS-1370/2017, whereby evidence of the petitioner has been closed.

Learned counsel for the petitioner has argued that the suit by plaintiff (NRI) was filed through the power of attorney and petitioner only prays for one opportunity to conclude his evidence, who is arriving in India in the coming days. Learned counsel has further drawn the attention of the Court to the order dated 23.08.2022, whereby application by plaintiff seeking adjournment beyond October 2022 was dismissed as it was not possible for him to reach India because of the formalities relating to visa etc. He submits that previously because of breakout of pandemic COVID-19, petitioner could not travel to India as a result of restrictions and through the impugned order, the Additional Civil Judge (Sr.Division),

Moga has erroneously closed the evidence of the plaintiff. He submits that in this case, the plaintiff is praying for relief of declaration seeking joint possession of the suit property, wherein his testimony is important as the power of attorney has ignored the plaintiff's cause. Learned counsel prays for one opportunity.

In view of the limited relief prayed for by the petitioner, this Court is not inclined to issue notice to the respondents/defendants, as it may cause unnecessary burden upon them to contest this petition, however, it shall be open for them to seek recalling of this order, in case plaintiff has concealed the material facts from this Court.

After hearing learned counsel and considering the background of the case, this Court is of the considered opinion that the plaintiff has not been examined in this case, therefore, if one opportunity is granted to the plaintiff, no prejudice would be caused, whose evidence is yet to be adduced. No doubt, the trial Court vide impugned order closed the evidence by noticing that approximately 24 opportunities were given to the plaintiff, who had failed to conclude his evidence, but at the same time, it cannot be ignored that for a long time because of pandemic COVID-19, the Courts were working with lots of restrictions. Even the petitioner had made a written request before the trial Court seeking adjournment beyond October 2022 as he was unable to travel before that, however, the said prayer was declined.

Resultantly, the impugned order dated 02.09.2022 is set aside and petitioner is granted one more opportunity to examine himself as a

witness, subject to the condition that he appears before the trial Court before 30.11.2022.

(MANOJ BAJAJ)
JUDGE

18.10.2022

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No