

112 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-4854-2022 (O&M)
Decided on : 31.10.2022

R.S.Bhalla

..... Petitioner

Versus

Jagmohan Bhalla and others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. J.C.Kapoor, Advocate
for the petitioner.

Manjari Nehru Kaul, J.(Oral)

CM-14565-CII-2022

Application is allowed as prayed for.

Main case

Present petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 29.09.2022 passed by Civil Judge (Jr. Divn.), Chandigarh vide which the evidence of the petitioner has been closed.

Learned counsel for the petitioner *inter alia* contends that the petitioner is a 79 years old senior citizen and due to miscommunication between him and his counsel, he was unable to appear for his cross-examination. Learned counsel submits that it is an inter se dispute between brothers and in case, the petitioner is not granted one opportunity to get himself cross-examined, he would suffer an irreparable loss. Learned counsel further submits that the petitioner may also be granted one opportunity to cross-examine the official witness of respondent No.3.

Heard.

No doubt, the petitioner has been negligent in pursuing his case, however, the fact remains that in case the petitioner is not granted one opportunity for his cross-examination, he would suffer irreparable loss, which in turn may 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 for his cross-examination. However, this Court is not inclined to permit the petitioner to cross-examine the official witness of respondent No.3. To settle the equity, the respondent can always be compensated with suitable costs.

Therefore, without issuing any notice to respondent and to avert any further delay, and also expenses which the respondent may have to incur to defend these proceedings, the impugned order dated 29.09.2022 is set-aside and the revision petition is disposed of in the following terms:-

- (i) The petitioner shall appear and be cross-examined by the respondents-defendants on the next date of hearing before the trial Court.
- (ii) In the event of default, the matter shall not be adjourned and no further opportunity shall be granted to the petitioner.
- (iii) This, however, shall be subject to costs of Rs.10,000/-, to be paid to the respondents before the trial Court, which shall be a condition precedent.

31.10.2022
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No