

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

126

CR-4544-2022

Date of decision: 18.10.2022

Varinder Nath Mayor

.....Petitioner

Versus

Deepak Mayor and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Bhriгу Dutt Sharma, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

The instant revision petition has been filed under Article 227 of the Constitution of India for setting aside of the order dated 22.08.2022 (Annexure P-7) passed by learned Civil Judge (Jr. Divn.), Jalandhar whereby evidence of the petitioner was closed by order in Civil Suit No.1033 of 2014 titled as 'Deepak Mayor and another Vs. Geeta Mayor and others'.

Learned counsel for the petitioner submits that the case was fixed for 25.10.2021 for leading evidence by the petitioner, however, the petitioner, aged about 80 years, could not come present at Jalandhar on a few dates on account of his old age and medical advice. The petitioner appeared before the Trial Court on 04.07.2022 and his examination-in-chief was recorded. A perusal of the order dated 04.07.2022 would show that the petitioner on account of his ill health was to go abroad for his medical check up and the case was adjourned to 22.08.2022. However, on account of deterioration of his health, the petitioner could not travel even from New Delhi to Jalandhar on 22.08.2022 for the purpose of his cross-examination and leading further

evidence and the evidence of the petitioner was closed by order. A prayer has, therefore, been made that a compassionate and lenient view be taken and the petitioner may be granted one last effective opportunity to lead his evidence.

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

If the petitioner is not granted one more opportunity to lead their evidence, he 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 his evidence.

In the wake of the above, without issuing notice to the respondents, to avoid any further delay as well as expenses which the respondents shall have to incur to defend these proceedings, the impugned order dated 22.08.2022, is set aside. The instant revision petition is allowed in the following terms:-

1. The petitioner is granted one last effective opportunity to lead his evidence.
2. In the event of default by the petitioner, the case shall not be adjourned any further for leading his evidence and consequently his evidence shall be deemed to be closed by order.
3. This, however, shall be subject to payment of costs in the sum of Rs.15,000/- to be paid to respondents/plaintiffs which shall be a condition precedent.

18.10.2022

Vinay

(MANJARI NEHRU KAUL)

JUDGE

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