

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

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(Through Video Conferencing)

CR-6064-2018 (O&M)

Date of decision: 14.03.2022

Lajpat Rai

.....Petitioner

Versus

Santosh Kumari and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. S.M. Wadehra, Advocate
for the petitioner.

Respondent No.1 ex parte.

Mr. Sukhdeep Singh, Advocate
for respondent No.2.

MANJARI NEHRU KAUL, J. (ORAL)

CM-22738-CII-2018

For the reasons mentioned in the application, the same is allowed and copies of medical record of the daughter of the petitioner regarding her treatment at PGI Chandigarh and order dated 17.09.2018 are taken on record as Annexures P-4 and P-5, subject to all just exceptions.

CR-6064-2018

Challenge in the instant revision is to the order dated 19.07.2018 passed by learned Civil Judge (Jr. Divn.), Karnal whereby the evidence of the petitioner (plaintiff) was closed by order of the Court in civil suit filed by the petitioner for restoration of possession of the suit under Section 6 of the Specific Performance Act, 1963.

Learned counsel for the petitioner, while drawing the attention of this Court to the medical reports placed on record, submits that since the petitioner's daughter was diagnosed with breast cancer of

high grade by the PGI Chandigarh, he was unable to lead his evidence as he remained busy with her during her treatment.

Per contra, learned counsel for respondent No.1 has opposed the prayer of the counsel opposite by submitting that the petitioner was granted as many as eight opportunities to lead evidence, however, he had failed to do so and thus the petitioner was not entitled to any further opportunity.

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

No doubt, the petitioner was granted as many as eight opportunities w.e.f. 23.10.2017 to 19.07.2018, however, the fact remains that on the last date when the evidence was to be led by the petitioner he could not put in an appearance due to the illness of his daughter. In the circumstances, the default of not completing evidence despite last opportunity being granted by the Court to the petitioner cannot be said to be intentional. Rather, it would be in the interest of justice that one last effective opportunity be granted to the petitioner to conclude his evidence.

Accordingly, the instant revision is allowed and the impugned order dated 19.07.2018 is set aside. The petitioner now shall be granted one last effective opportunity to conclude his evidence which, however, shall be subject to payment of Rs.5,000/- as costs to be paid to respondent No.2.

14.03.2022

Vinay

(MANJARI NEHRU KAUL)

JUDGE

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