

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
CR-356-2023 (O&M)
Date of Decision: 19.01.2023

Keemat Singh

.....Petitioner

Versus

Nasib Kaur and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Tejinderbir Singh, Advocate
for the petitioner.

ARUN MONGA, J. (ORAL)

Petition herein, under Article 227 of Constitution of India is for setting aside order dated 14.09.2022 (Annexure P-2) and 08.12.2022 (Annexure P-4) passed by Learned Civil Judge (Junior Division), Bathinda, whereby in a suit for declaration filed by petitioner, the evidence of the petitioner/plaintiff was closed by order and application for reviewing of the said order, was declined respectively.

2. Learned counsel submits that case was fixed for 04.05.2022 and for that date, Ahlmad of the Court had not issued summons to the witnesses of the petitioner/plaintiff. However, the Examination-in-Chief of the petitioner was recorded, but his cross-examination was deferred at the request of counsel for the respondent/defendants. Thereafter, on the next date i.e. on 24.05.2022, two witnesses of the petitioner/plaintiff were examined but their cross-examinations were again deferred at the request of learned counsel for the defendants. On the next date as well, learned counsel for defendants did not cross-examine the above two witnesses and the matter was again adjourned. On resumed hearing on 08.08.2022, part cross-examination of one of the witnesses was recorded but remaining was deferred. On the adjourned date, respondent No.1 had filed an application to summon some record to cross-examine the present witnesses of the petitioner and the case was adjourned to 14.09.2022 for awaiting record called for

by respondent No.1 for the purpose of cross-examination of the witnesses of the petitioner. However, on 14.09.2022, learned counsel for the plaintiff could not appear when the case was called, as he was busy before some other Court. On account of his non-appearance, the evidence of plaintiff was ordered to be closed by way of impugned order.

3. Given the nature of order being passed, there is no necessity to issue notice to the respondents as no prejudice would be caused to them. Notice to the respondents is thus dispensed with.

4. I have heard learned counsel for the petitioner and gone through the case file.

5. Rules of procedure are handmaid of justice and cannot be allowed to thwart real and substantial justice between the parties. According to the learned counsel, no prejudice would be caused to the respondents if the petitioner is permitted one opportunity to conclude his evidence.

6. What seems to have, *inter alia*, weighed with the Court below is the likely delay that would be caused in the trial and the stage at which permission to conclude his evidence has been asked by the plaintiff. As regards delay, it is the petitioner's own suit and delay in trial is to his own peril. I deem it appropriate to grant just one opportunity to the petitioner to conclude his evidence, subject to payment of costs.

7. In the premise, the instant revision petition is allowed. Impugned orders are set aside subject to payment of Rs.20,000/- as costs. Petitioner shall be given one opportunity to conclude his evidence. However, it is made clear that in case the petitioner fails to conclude his evidence on the date given by Ld. Trial

Court, no further time shall be granted and the Court below shall proceed in accordance with law.

8. Pending civil miscellaneous applications, if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

January 19, 2023
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No