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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

-.-

Civil Revision No. 147-2023
Date of decision: 11.01.2023

Harpreet Singh

.....*Petitioner*

versus

Dharinder Rambani and another

.....*Respondents*

Coram: Hon'ble Mr. Justice Rajbir Sehrawat

-.-

Present: Mr. Rakesh Sobti, Advocate and
Mr. Jaskirat Singh Arora, Advocate
for the petitioner

-.-

Rajbir Sehrawat, J. (Oral)

The present revision petition has been filed by the petitioner, assailing the order dated 21.12.2022 (Annexure P-8), passed by the Civil Judge (Junior Division), Amritsar, in case titled as '*Dharminder Rambani vs. Harpreet Singh etc.*' whereby the trial Court has closed the evidence of the defendant-petitioner by order without assigning any reasons and considering the facts and circumstances of the case in the right and prospective manner.

The factual matrix of the case is that respondent No. 1 herein-land owner filed eviction petition against the petitioner/defendant from the shop bearing No. 1328/22-10, Blue Plate MCA No. 1405/XII-10, Gali Dhai Khana, Katra Sher Singh, Amritsar in the year 2018. Thereafter, the case was adjourned several times. On all those dates, the petitioner/defendant examined only one witness and even that could not be cross examined.

Ultimately, the trial Court has closed the evidence of the present petitioner vide order dated 21.12.2022 (Annexure P8).

Arguing the case, counsel for the petitioner has submitted that the petitioner/defendant could not lead the evidence on account of the requirement of certain documents; which were to be procured/arranged from the Income Tax Department. Besides this, there were unavailing circumstances due to which, the petitioner could not examine the witness in time. But the petitioner is the only defendant in the rent petition being a tenant, therefore, in case, one opportunity is not granted to him to lead the evidence, then his case will be seriously prejudiced. Additionally, non-examination of the witness was not intentional, rather, it happened on account of the facts and circumstances; which were beyond the control of the petitioner. Hence, the petitioner deserves to be granted one opportunity to lead evidence and cross examine the witness.

Having heard counsel for the petitioner and having perused the case file, this Court finds that the trial Court had granted as many as eleven opportunities to the petitioner/defendant to lead the evidence and to examine the witness. However, the petitioner has wasted all the said opportunities. Therefore, this Court does not find any *ex-facie* illegality and impropriety in the order passed by the trial Court. However, the petitioner is the main defendant in the rent petition before the trial Court and if the petitioner is not granted an opportunity to complete his evidence, as he may deem appropriate, it would cause prejudice to his case; which could not be redeemed by any means. Moreover, the Rules of procedure are handmade to advance interest of substantial justice and not to thwart or obstruct the same.

Therefore, it would not be inappropriate if the petitioner is granted, at least, one opportunity to examine the witness and/or to lead the evidence, whatever he wants to lead before the trial Court; but by putting him under an appropriate financial burden.

In view of the above, the present petition is allowed and the impugned order dated 21.12.2022 passed by the Civil Judge (Junior Division) Amristar (Annexure P-8), is set aside and the trial Court is directed to grant one effective opportunity to the petitioner/defendant to complete the examination of his witness and/or to lead his entire evidence, subject to payment of Rs.15,000/- as costs, to be deposited with the Poor Patient Welfare Funds at PGI, Chandigarh; within a period of fifteen days from today.

It is, however, clarified that the trial Court shall grant the said opportunity to the petitioner only on production of receipt of the costs having been deposited, as ordered above.

(Rajbir Sehwat)
Judge

January 11, 2023
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No