

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

119

CR No.380 of 2023 (O&M)
DATE OF DECISION : 20th JANUARY, 2023

Kukku

.... Petitioner

Versus

Veena Thakur and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Bhawesh Chaudhary, Advocate
for the petitioner.

* * * *

RAJBIR SEHRAWAT, J. (Oral)

This is a revision petition filed under Article 227 of the Constitution of India praying for setting aside the order dated 25.11.2022 (Annexure P-13) passed by Civil Judge (Junior Division), Jalandhar in Civil Suit No.700/2019 (Annexure P-1) titled as Kukku Versus Veena Thakur etc., vide which the evidence of the petitioner/plaintiff has been closed by order, with certain other prayers made in the present petition.

In view of the nature of order being passed, this Court does not deem it appropriate to issue notice to the other side, at this stage.

It is submitted by the counsel for the petitioner that the issues in the case were framed by the trial Court on 17.02.2022. The petitioner is a senior citizen of the age of 66 years. He had contacted Covid-19 and therefore, was having health problems. Ultimately, he was admitted to the hospital in September, 2022 and he had to remain as indoor patient for about two three days. Therefore, neither the petitioner

could instruct his counsel nor could produce his witnesses before the trial Court. Hence, the default in not leading the evidence with due promptitude was not intentional on the part of the petitioner. The petitioner being a plaintiff would suffer irreparable damage to his case, if he is not permitted to lead the evidence. Therefore, the petitioner deserves to be granted opportunity to lead the evidence before the trial Court.

Having heard the counsel for the petitioner and having perused the case file, this Court finds that after framing of the issues on 17.02.2022, the trial Court had adjourned the case for, at least, seven times; for granting opportunity to the petitioner to lead the evidence. Only after granting the last opportunity, when the petitioner failed to produce the witnesses, the trial Court has passed the impugned order closing the evidence of the petitioner by order of the Court. Therefore, *ex facie*, there does not appear to be any illegality or perversity in the order passed by the trial Court.

However, the law of procedural is handmade to advance the interest of the substantial justice. The petitioner, being a plaintiff, would suffer a damage and prejudice to his case which cannot be redeemed subsequently, if he is not granted opportunity to lead the evidence which he wishes to lead; so as to prove his case. Therefore, it would not be inappropriate to grant opportunity to the petitioner to lead the evidence, however, by putting him under an appropriate financial burden.

Accordingly, the order passed by the trial Court is set aside. The trial Court is directed to grant appropriate opportunity to the petitioner to lead his evidence, however, subject to payment of ₹7,500/-

as costs, to be deposited with the Poor Patient Welfare Fund, PGI, Chandigarh, within a period of 15 days from today.

It is clarified that the petitioner would be permitted to lead the evidence only on production of the receipt before the trial Court qua having deposit the costs; as ordered above.

Disposed of in the above terms.

20th JANUARY, 2023
‘sandeep’

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>