

204

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

CR-483-2020 (O&M)

Date of Decision: 02.05.2023

Darshan Singh

....Petitioner

Versus

Kapoor Singh and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Ms. Gurpreet Kaur, Advocate
for Mr. Ravi Dutt Sharma, Advocate
for the petitioner.

None for respondents, despite service.

ARUN MONGA, J. (ORAL)

Petition herein is for setting aside order dated 08.01.2020 (Annexure P-17) passed by Ld. Additional Civil Judge (Sr. Division), Guhla in a suit for recovery of Rs.5,63,100/- along with interest @ 2% per month since 15.05.2015 till its realization, whereby the evidence of plaintiff/petitioner was closed.

2. Succinct facts first, as pleaded in the instant petition.

2.1. Plaintiff-petitioner filed a civil suit for recovery of Rs.5,63,100/- against respondents on 23.12.2015 before learned Lower Court. Respondents appeared and filed their written statement on 06.05.2016. Plaintiff-petitioner filed replication to the written statement on 20.7.2016. Issues were framed by Ld. Court vide order dated 20.7.2016 and the case was fixed for plaintiff's evidence.

2.2. On 22.2.2017, plaintiff/petitioner appeared as PWI before Ld. Court and his evidence was recorded. On 04.10.2017, the plaintiff/petitioner filed application (Annexure P-6) under Section 73 of Evidence Act for directing

respondents to give the specimen signatures in Court.

2.3. On 6.12.2017, the respondent filed reply (Annexure P-8) to the said application. Vide order dated 6.11.2019 (Annexure P-9) passed by learned Lower Court, the said application was allowed and respondent No.1 was directed to give the specimen signatures in the Court on 21.11.2019.

2.4. On 21.11.2019 respondent No.1 did not turn up to give the specimen signatures in Court and as such the case stood adjourned to 27.11.2019. On 27.11.2019, respondent No.1 appeared before Ld. Court and had given his specimen signatures. No handwriting and finger print expert was available in District Courts, Kaithal or Civil Court, Guhla (handwriting and finger print experts occasionally visited Civil Courts Guhla) on the given dates and the handwriting and finger prints expert had to visit Civil Courts, Guhla on 11.12.2019, therefore, on the request of counsel for plaintiff/petitioner, the case stood adjourned to 11.12.2019.

2.5. On 11.12.2019, the learned Presiding Officer was on leave. So, the case file was taken up on 10.12.2019 and the case stood adjourned to 18.12.2019. On 18.12.2019, no handwriting and finger print expert was available in Civil Courts Guhla, to take the photographs of the specimen signatures of respondent No.1 and compare it with the disputed signatures of respondent No.1 and the handwriting expert told the counsel for plaintiff-petitioner that he shall visit Civil Courts, Guhla on 04.01.2020. So, on the request of counsel for plaintiff/petitioner the case stood adjourned to 04.01.2020 for plaintiff's evidence. On 04.01.2020, Sh. R.V. Vashista, handwriting and finger print expert, Patiala inspected the case file and took the photographs of the standard and disputed signatures for comparison on an application for file inspection.

2.6. Vide order dated 4.1.2020 (Annexure P-15), the case stood adjourned to 08.01.2020 for leading plaintiff's evidence subject to last opportunity on

payment of costs of Rs.1,000/-. On 08.01.2020, the handwriting and finger print expert Sh. R.V. Vashista was not available and he had to visit Civil Courts, Guhla on 14.01.2020. So, learned counsel for plaintiff/petitioner moved an application for depositing the costs and made the request to Ld. Court below to adjourn the case for 14.01.2020, keeping in view the genuine difficulty of plaintiff/petitioner. But vide impugned order dated 08.01.2020 (Annexure P-17), the evidence of plaintiff/petitioner was closed.

3. Learned counsel appearing for petitioner would argue that on the relevant date the handwriting and finger print expert was already engaged to give the expert evidence at other Station and was not in a position to come present in Civil Court, Guhla, whose evidence is very much necessary for the just and fair decision of the case.

4. None appears for the respondents, despite service.

5. I have heard learned counsel for petitioner and have perused the case file carefully.

6. Facts stated in the preceding paragraphs reflect that the delay in concluding the plaintiff's evidence is not entirely attributed to plaintiff alone as the chronology of events itself is self-speaking. Furthermore, I may also hasten to add here that Ld. Trial Court got rather over-swayed by the fact that further opportunity to plaintiff to adduce his evidence would delay the trial. Delay, if any, is rather detrimental to plaintiff himself, given the nature of suit filed by him.

7. Be that as it may, no doubt, merely because the delay is detrimental to plaintiff himself, it should not be an excuse for the plaintiff to inordinately delay the proceedings given the high pendency of cases before Ld. Court below.

8. In the peculiar circumstances of the case, as is borne out from the proceedings of Ld. trial Court, the instant petition is allowed subject to payment of

costs of Rs.5,000/- with the condition that plaintiff shall not be given more than two effective opportunities to adduce his evidence, subject of course to the discretion of Ld. Trial Court to give further adjournment for the purpose depending upon exigencies of work.

9. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

May 02, 2023
ashish

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