

CR-6344-2017
DECIDED ON: 20.07.2023

....PETITIONER

....RESPONDENT

None for the respondent.

4. No one has chosen to appear on behalf of the respondent.

5. I have considered the matter.

6. On 30.08.2017, the following order was passed by the trial Court:-

“The case was fixed for evidence of the plaintiff but no PW is present, subject to last opportunity. The detail perusal of the file evinces that an undertaking has been given by the counsel for the plaintiff on 11.05.2017 and despite that three more opportunities were granted but plaintiff failed to conclude his evidence. Therefore, no useful purpose shall be served for further adjourning the case for the said purpose as it is amounting to the wastage of time of the Court. Therefore, evidence of the plaintiff is hereby closed as per undertaking given by the counsel for the plaintiff. Case is adjourned to 07.09.2017 for evidence of the defendant.”

7. In the considered opinion of this Court, the trial Court could have granted one more opportunity to the petitioner-plaintiff for concluding his evidence which could have avoided the delay which has now been caused on account of the pendency of the present revision petition. Though strictly speaking, the order is not erroneous as sufficient opportunities had already been granted to the petitioner-plaintiff for leading and concluding his evidence, however, it is settled law that matters should always be decided on merits and parties should not be non-suited on technicalities. In the considered opinion of this Court, one more opportunity deserves to be granted to the petitioner-defendant to conclude his evidence.

8. In view of the above, the present civil revision petition is allowed. The order dated 30.08.2017 passed by the Civil Judge (Junior Division), Phagwara is set aside. A direction is issued to the trial Court to grant one more opportunity, as per the convenience of the trial Court, to the

petitioner-plaintiff to conclude his evidence. The evidence shall be adduced at the own responsibility of the petitioner-plaintiff and no requests for any adjournment shall be entertained except a request for cross-examination of the witness which the trial Court may grant as per its discretion. This shall, however, be subject to payment of ₹15,000/- as costs to the respondent-defendant.

20.07.2023
Prince Chawla

(VIKRAM AGGARWAL)
JUDGE

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