

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

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CR-555-2023 (O&M)

Date of decision: 30.01.2023

Vijay Kumar

..Petitioner (s)

Versus

Jiwan Kumar

..Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: Mr. DK Singal, Advocate for the petitioner.

NIDHI GUPTA, J (Oral)

Prayer in this Revision Petition is for setting aside order dated 19.01.2023 passed by the learned Addl. Civil Judge (Sr. Div.), Barnala vide which the application of the petitioner-defendant for recalling order dated 03.01.2023 whereby his evidence has been closed by order, has been dismissed.

Learned counsel for the petitioner submits that trial Court erred in passing the impugned order as counsel of the petitioner before the trial Court had noted down the wrong next date of hearing, therefore, he could not appear on 03.01.2023 and evidence of the petitioner had been closed and on next date i.e. 06.01.2023, petitioner moved an application for recalling the said order, however, the same had been dismissed vide impugned order. At the very outset, learned counsel submits that one effective opportunity may be granted to the petitioner to complete his evidence, as grave injustice will be caused to him if he is not permitted to do so.

After hearing learned counsel for the petitioner, issuance of notion of motion is dispensed with at this stage, as it will cause further delay in disposal of the case. Accordingly, keeping in view the above facts as canvassed by ld. Counsel for the petitioner, this petition is allowed and impugned order dated 19.01.2023 is set aside. The learned Court below is directed to grant one effective opportunity to the petitioner to complete his evidence, however subject to payment of Rs.5000/- as costs to the plaintiff-respondent.

Disposed of as above. Pending application, if any, also stands disposed of.

30.01.2023

**(NIDHI GUPTA)
JUDGE**

ashok

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