

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-8240-2018 (O&M)

Date of decision:19.05.2023

Babu Ram

....Petitioner

versus

Bawa Dass

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- None.

ARUN MONGA, J. (ORAL)

Present revision petition is to set aside impugned order dated 21.09.2018 (Annexure P-8) passed by learned Civil Judge (Junior Division), Gurdaspur, whereby, evidence of petitioner/plaintiff was closed by Court order.

2. Succinct facts first.

2.1 Petitioner/plaintiff filed suit for mandatory injunction directing the respondent/defendant to remove/demolish the projections measuring about 3 feet and also to remove shutters constructed/installed by defendant illegally encroaching the land measuring 3 Marlas of petitioner.

2.2. Vide impugned order dated 21.09.2018 (Annexure P-8), evidence of petitioner/ plaintiff was closed by Court order.

3. While issuing notice of motion on 04.12.2018, a coordinate Bench of this Court presided over by Mr. Sudip Ahluwalia, J. (as he then was) in this Court passed the following order:

"It is contended inter alia by Ld. Counsel for the petitioner that after passing of the impugned order dated 21st September, 2018 (Annexure P-8), no evidence from the defendant side was led on the adjourned date (19th October, 2018). Thereafter, the matter was posted to 1st December, 2018 on which only the Examination-in-Chief of the defendant's first witness by way of

affidavit was placed on record, and cross-examination of the said witness has not yet commenced.

It is further submitted that given one opportunity, the petitioner would ensure that evidence of his witness on commission is positively completed on a single date, and the evidence of the remaining witnesses all of whom are Government officials can also be completed only on a single date either before or after evidence of the witness sought to be examined on commission, and that the Ld. Court below had not even cared to take the evidence of the official witnesses already present on the concerned date (21" September, 2018).

Notice of motion for 13th May, 2019.

Ld. Trial Court is directed to adjourn its proceedings beyond the date fixed by this Court. ”

4. *Apropos*, matter was taken up on 13.05.2019. Subsequently, matter has remained pending in this Court and case was adjourned from time to time by order while the trial before learned Court below remained at abeyance pursuant to the aforesaid order and on account of non-hearing of the case by this Court. I am of the view that in order to meet the ends of justice, let the trial proceed further and assistance of learned counsels is not required. In any case, given the nature of order being passed, none of the parties would be prejudiced.

5. In view of the statement made by learned counsel, as noted in the aforesaid order, one effective opportunity shall be granted to petitioner subject, of course to discretion of learned trial Court to further grant opportunity, in case it so desires depending upon exigencies of work before it. To that extent, impugned order is modified and the revision petition is allowed.

6. Disposed of, accordingly.

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

(ARUN MONGA)
JUDGE

19.05.2023
vandana

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