

112 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-1114-2023

Date of Decision: 20.02.2023

Baldev Singh

..... Petitioner

Versus

Amrit Pal

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Sherry K. Singla, Advocate,
for the petitioner.

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RAJBIR SEHRAWAT, J. (ORAL)

This is a petition filed under Article 227 of the Constitution of India for setting aside the order dated 04.01.2023 (Annexure P-2) passed by the Civil Judge (Junior Division), Talwandi Sabo, whereby the evidence of the defendant/petitioner has been closed by order of the Court.

It is submitted by the learned counsel for the petitioner that the petitioner herein is the defendant in the suit for recovery of Rs.7,70,000/-, including the interest. The evidence of the petitioner has been closed by order of the Court. The reason for closure of the evidence is that the petitioner was granted four dates for leading the evidence, however, he had not led the evidence on the said dates. Learned counsel has submitted that the default in leading the evidence on the part of the petitioner was not deliberate. The said default happened only because of communication gap between the counsel representing the petitioner before the trial Court and the petitioner. Moreover, all these dates were fixed within the span of two

months, whereas, the plaintiff had taken about seven months in completing his evidence. Learned counsel has also submitted that since the petitioner is the contesting defendant, therefore, the petitioner would suffer irreparable loss if he is not permitted to lead the evidence in his defence. Hence, he deserves to be granted one opportunity to lead his evidence.

In view of the nature of the order, this Court is intending to pass; it is not necessary to issue notice to the respondents, at this stage.

Having heard learned counsel for the petitioner and having perused the case file, this Court finds that the trial Court had fixed the case for defence evidence of the petitioner; on four dates. However, not even a single witness was examined by the defendant. Therefore, this Court does not find any *ex facie* illegality or perversity with the order passed by the Court below, as such. However, the law of procedure is handmade to advance the interest of the substantial justice. Therefore, the parties to the *lis* have to be granted an opportunity to present their case, instead of depriving them the opportunity. Moreover, the petitioner is the contesting defendant in the suit and if he is not permitted to lead the evidence, then his case would be prejudiced beyond redemption. Therefore, it would not be inappropriate if the petitioner is granted one effective opportunity to lead the evidence, however, by putting him under an appropriate financial burden.

Accordingly, the order impugned in the present petition is set aside. The trial Court is directed to grant one effective opportunity to the petitioner to lead his entire evidence, however, subject to payment of Rs.15,000/- as costs; to be deposited with the Institute for the Blinds, Sector

26, Chandigarh within a period of three weeks from today. It is, however, clarified that the trial Court shall grant the said opportunity to the petitioner only on production before it the receipt of having deposited the costs, as ordered above.

(RAJBIR SEHRAWAT)
JUDGE

20.02.2023
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No