

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

CR-1241-2023 (O&M)

Date of Decision: 23.02.2023

Talwinderjit Singh

....Petitioner

Versus

Inderjit Kaur

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Vivek K. Thakur, Advocate
for the petitioner.

ARUN MONGA, J. (ORAL)

Petition herein is for setting aside order dated 20.01.2023 (Annexure P-3) and order dated 02.02.2023 (Annexure P-5), whereby the evidence of petitioner/plaintiff was closed in a suit for declaration and permanent injunction.

2. Given the nature of order being passed, there is no necessity to issue notice to respondent/defendant, as no serious prejudice would be caused to her. Notice to respondent is thus dispensed with.

3. Learned counsel contends that rules of procedure are handmaid of justice and cannot be allowed to thwart real and substantial justice between the parties. According to learned counsel, no prejudice would indeed be caused to respondent-defendant, if the petitioner is permitted further opportunity to produce his evidence.

4. From the pleadings on record, it is borne out that as many as total three PWs were examined before the Ld. Trial Court and plaintiff sought more time to produce further evidence. But his prayer was rejected by Ld. Trial Court by observing that plaintiff had already availed 11 opportunities to conclude his evidence.

5. In my view, merely because the trial would get delayed ought not to be the reason of denial of opportunity to petitioner to produce his evidence since the same goes to the root of the matter forming the very basis of his claim, as mentioned in the suit. What seems to have, *inter alia*, weighed with the Court below is the likely delay that would be caused in the trial and the stage at which permission to examine the expert has been asked by the plaintiff. As regards the delay, it is the petitioner’s own suit and delay in trial is to his own peril.

6. Keeping in view the facts and circumstances of the case, I deem it appropriate to grant two more opportunities to the petitioner to produce his remaining evidence, subject of course to the discretion of Ld. Trial Court to grant further opportunity depending upon the exigency of work. However, the said opportunities would be subject to costs of Rs.10,000/- to be paid to defendant/respondent, which shall be a condition precedent. If the costs are not paid, as directed, the impugned order shall stand restored.

7. Petition stands allowed.

8. Pending civil miscellaneous application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

February 23, 2023
ashish

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No