

Balwant Singh

....Petitioner

versus

Harwinder Singh and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE ARUN MONGA**

**Present:-** Mr. Onkar Rai, Advocate for petitioner.

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**ARUN MONGA, J. (ORAL)**

Present revision petition is to set aside impugned order dated 29.01.2020 (Annexure P-8) passed by learned Civil Judge (Junior Division), Ludhiana whereby, evidence of petitioner-defendant(s), was closed by order.

2. Learned counsel for petitioner contends that petitioner-defendant is a senior citizen and uncle of plaintiff-respondents. Plaintiff-respondents filed a suit for permanent injunction against petitioner and his son Gurje Pal Singh regarding suit property. Learned Trial Court ordered to maintain status quo *qua* property in question. Plaintiff-respondents violated said order and forcibly entered into the property in question. An FIR was registered in this regard. Petitioner-defendant also filed a contempt application before learned Court below. Thereafter, petitioner-defendant filed an application for transferring aforesaid contempt application. Vide order dated 09.01.2020, learned Civil Judge (Junior Division), Ludhiana dismissed transfer application.

2.1 Aggrieved, petitioner preferred CR-509-2020 before this Court. Vide order dated 30.01.2020, this Court directed learned Trial Court to adjourn the matter to a date beyond that given by this Court. Learned counsel for petitioner-defendant informed learned trial Court regarding pendency of civil revision against

dismissal order of transfer application. Thereafter, learned trial Court vide impugned order dated 29.01.2020 (Annexure P-8), declined request to adjourn the matter and closed the evidence of petitioner-defendant, by order.

3. Given the nature of order being passed, there is no necessity to issue notice to respondents, as no serious prejudice would be caused to them. Notice to respondents is thus dispensed with.

4. I have heard learned counsel for petitioner and perused the case file.

5. Rules of procedure are handmaid of justice and cannot be allowed to thwart real and substantial justice between the parties. Prejudice would indeed be caused to petitioner unless afforded an opportunity to lead evidence. Trial in the suit may lead to unjust consequences as there would be no contest in the absence of any evidence to be led by petitioner-defendant.

6. For the foregoing reasons, I deem it appropriate to grant one more opportunity to petitioner-defendant to lead evidence, subject of-course to discretion of learned trial Court to further adjourn, in case it so desires depending upon work exigency before it. To that extent, the impugned order is modified and the revision petition is allowed, dispensing with notice to the respondents. Ordinarily, this Court would have imposed some costs. However, looking at the stage of trial and the fact that he has bear with extra burden of litigation before this Court, same is not warranted in this case.

7. Disposed of, accordingly.

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

**(ARUN MONGA)**  
**JUDGE**

**March 02, 2023**  
mahavir

Whether speaking/reasoned:  
Whether reportable:

Yes/No  
Yes/No