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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-1630-2023 (O&M)

Date of decision: March 16, 2023

Kulwant Singh

....Petitioner

versus

Ramandeep Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. C.S. Jattana, Advocate for petitioner.

ARUN MONGA, J. (ORAL)

Present revision petition is to set aside impugned order dated 11.11.2022 (Annexure P-6) passed by learned Civil Judge (Junior Division), Kharar, whereby, evidence of petitioner/plaintiff No.1, was closed.

2. Learned counsel for petitioner would contend that petitioner is a Senior Citizen. He along with proforma-respondent No.3 herein filed a suit for declaration against respondents No.1 and 2 to set aside agreement to sell dated 08.10.2012 and cancel the same in respect of suit land. Respondent No.2 was proceeded *ex parte* on 27.11.2017. Issues were framed on 02.04.2018 and case processed further for evidence and was being adjourned from time to time. Vide impugned order dated 11.11.2022 (Annexure P-6), evidence of the plaintiff/petitioner was closed by order stating that plaintiff availed approximately 14 opportunities before COVID-19 pandemic and thereafter, availed 3 effective opportunities, but failed to conclude evidence; and no justification to further adjourn the case was made.

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.

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4. I have heard learned counsel for petitioner and perused the case file.
5. Rules of procedure are handmaid of justice. They cannot be allowed to thwart real and substantial justice between the parties. Prejudice would indeed be caused to petitioner herein, unless afforded an opportunity to adduce evidence. Trial in the suit may lead to unjust consequences as there would be denial of opportunity for production of remaining evidence by petitioner-plaintiff No.1.
6. For the foregoing reasons, I deem it appropriate to grant one more opportunity to petitioner-plaintiff No.1 to lead evidence, subject to payment of costs of Rs.10,000/- and subject of-course to discretion of learned trial Court to further grant opportunity, in case it so desires depending upon work exigency before it. Costs shall be paid to respondents No.1 and 2 herein. To that extent, impugned order is modified and the revision petition is allowed, dispensing with notice to respondents.
7. Disposed of, accordingly.
8. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

March 16, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No