

CR-1697-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-1697-2023 (O&M)

Date of decision: March 17, 2023

Vinod Kumar

....Petitioner

versus

Mayawati and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Vikram Singh, Advocate for petitioner.

ARUN MONGA, J. (ORAL)

Present revision petition is to set aside impugned order dated 07.02.2023 (Annexure P-2) passed by learned Additional Civil Judge (Senior Division), Indri, whereby, evidence of petitioner and pro forma respondent No.4 (plaintiffs), has been closed by Court order.

2. Learned counsel for petitioner would contend that petitioner and pro forma respondent No.4 (plaintiffs) had filed suit for permanent injunction against respondents No.1 to 3 *qua* suit property. He contends that counsel for petitioner/ plaintiff suffered long illness due to which he could not lead evidence within the given period. Vide impugned order dated 07.02.2023 (Annexure P-2), evidence of petitioner/ plaintiff was closed by Court order. Learned counsel for petitioner fairly concedes that technically, learned Court below is correct in its assertion that 24 opportunities were granted for adducing evidence. However, he submits that though it may on first flush seem to suggest as if plaintiff is responsible for delay, but in reality, same was caused due to matter being referred twice to the Mediation Centre to explore possibility of settlement talks owing to which adjournments were necessitated.

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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. They cannot be allowed to thwart real and substantial justice between the parties. The valuable right of litigants to establish their cases by adducing evidence ought not to be taken away by the Court except in a case of their deliberate omission/failure to produce evidence more so if the other side can be compensated by costs. Prejudice would indeed be caused to petitioner herein, unless afforded an opportunity to adduce evidence. Trial in the suit may lead to unjust consequences in the absence of an opportunity to the petitioner-plaintiff to lead evidence.

6. In the peculiar circumstances, I deem it appropriate to grant one more opportunity to petitioner-plaintiff 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 exigencies of work before it. Costs shall be paid to respondents No.1 to 3 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 17, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No