

C.R.No.2169 of 2019

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.248

Case No. : C.R.No.2169 of 2019

Date of Decision : July 05, 2023

Amar Singh (deceased) through legal heirs Petitioner
vs.

Ranjit Singh and others Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Munish Raj Chaudhary, Advocate
for the petitioner.

Mr. Tribhuvan Singla, Advocate
for respondent no.1.

* * *

GURBIR SINGH, J. :

1. Prayer in this revision petition filed under Article 227 of the Constitution of India is for setting aside the order dated 07.03.2019 (Annexure P-7), passed by the learned Trial Court.

2. Learned counsel for the petitioner submits that the case was fixed for 05.01.2019. The learned Presiding Officer was on leave on that day. So, the case was taken up on 04.01.2019 (Annexure P-1) and was adjourned to 20.05.2019. The Reader of the Court was directed to inform the parties about the next date of hearing. The said order was downloaded from the website of the Court. Later, the said date was got changed from 20.05.2019 to 20.02.2019. The petitioner was having no knowledge about the same. On 20.02.2019, the case was taken up and was adjourned to 07.03.2019. On that day, no one put in appearance on behalf of the

petitioner but still, presence of his counsel was marked. A copy of the said order dated 20.02.2019 has been annexed as Annexure P-3.

3. The petitioner came to know about the change of date and application was filed regarding the same on 07.03.2019. The case was taken up in the morning and was adjourned to 26.03.2019 (Annexure P-4). However, in the afternoon, the case was taken up again for cross-examination of PW-1 and PW-2 on behalf of the petitioner. Without affording the petitioner any opportunity, cross-examination of these witnesses was treated to be 'Nil' (Annexures P-5 and P-6).

4. Learned counsel for the petitioner further submits that keeping in view the aforesaid facts of the case, one opportunity be granted to the petitioner to cross-examine the aforesaid two witnesses.

5. Learned counsel for respondent no.1 has submitted that the petitioner was very well aware of the date as 20.02.2019. That is why, the counsel for the petitioner was present in the Court on that day and it is so mentioned in the order dated 20.02.2019 itself. The petitioner failed to cross-examine PW-1 and PW-2. So, learned Trial Court recorded their cross-examination as 'Nil'.

6. Heard.

7. Learned counsel for the petitioner has placed on the record copy of the order dated 04.01.2019 (Annexure P-1), which was downloaded from the website of the Court, wherein the next date is shown as 20.05.2019. In the file, the date was shown to be 20.02.2019. On 20.02.2019, the case was adjourned to 07.03.2019. On that day, the petitioner moved an application

and the case was adjourned to 26.03.2019. Since there was some mistake on the part of the officials of the Court, so, the petitioner should not suffer. A party has got every right to get the decision of his case on merits. A party cannot be non-suited merely on the technicalities.

8. Keeping in view all the facts and circumstances, this revision petition is allowed and the order dated 07.03.2019 (Annexure P-7) is hereby set aside. The learned Trial Court is directed to fix the case for cross-examination of PW-1 and PW-2 within one month. The said witnesses shall be produced by the plaintiff at his own responsibility. The petitioner is also directed to cross-examine the said witnesses on the same very day. In case, the Trial Court is not able to examine the witnesses on that day, then the cross-examination be got conducted on the very next working day.

9. The petitioner is burdened with costs of Rs.5,000/-, out of which Rs.2,000/- shall be deposited with the concerned District Legal Services Authority and Rs.3,000/- shall be paid to the plaintiff-respondent no.1.

10. Pending applications, if any, shall stand disposed of along with this judgment.

July 05, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.