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

CR-3064-2023

Date of Decision: 17.05.2023

Shamsher Singh

..... Petitioner

Versus

Pritam Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Ms. Sukhpreet Kaur, Advocate,
for the petitioner.

RAJBIR SEHRAWAT, J. (ORAL)

This is a petition filed under Article 227 of the Constitution of India praying for setting aside the impugned order dated 06.09.2022 passed by the Civil Judge (Senior Division), Sri Anandpur Sahib, whereby the remaining oral evidence of the petitioner/plaintiff was closed by order of trial Court, as well as, for setting aside the impugned order dated 03.05.2023 passed by the Additional Civil Judge (Senior Division), Sri Anandpur Sahib, whereby the application for seeking review of order dated 06.09.2022 has also been dismissed.

It is submitted by the learned counsel for the petitioner that the Court below has wrongly closed the evidence of the petitioner/plaintiff despite the fact that the evidence of the petitioner/plaintiff itself is continuing and the petitioner/plaintiff was yet to be cross-examined. It is further submitted that although several opportunities were granted to the petitioner/plaintiff by the trial Court for leading evidence, however, on the

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said dates the evidence could not be led because of the intervening Covid-19 pandemic. Thereafter, the petitioner/plaintiff presented himself as a witness in the first instance. His statement in examination-in-chief was recorded. However, the counsel for the respondents/defendants had taken time for the cross-examination. It is, at this stage, that the evidence of the petitioner/plaintiff has been closed. Learned counsel has also submitted that since the petitioner is the plaintiff of the suit, therefore, his case would be seriously prejudiced in absence of the evidence, if the petitioner is not granted opportunity to lead the evidence. Accordingly, it is submitted that the impugned order be set aside and the petitioner be granted reasonable opportunity to lead evidence in support of his case.

In view of the nature of the order being passed in this case, this Court does not see any requirement of issuing notice to the respondents; at this stage.

Having heard learned counsel for the petitioner and having perused the case file, this Court finds that the petitioner has been granted as many as eight opportunities by the trial Court to lead his evidence before passing the order of closure of the evidence. However, the said opportunities were not properly utilized by the petitioner/plaintiff. Therefore, this Court does not find any *ex facie* impropriety with the course of action adopted by the Court below.

However, the law of procedure is handmade to advance the interest of the substantial justice. The interest of the substantial justice demands that the parties to the *lis* should be heard-out to the maximum

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possible extent instead of restricting the hearing to the parties. Moreover, the petitioner is the plaintiff of the suit, therefore, his case would be adversely effected beyond redemption, if he is not granted an effective opportunity to lead his evidence and to prosecute his suit accordingly. One fact to be noted is that the Covid-19 pandemic intervened in between, because of which the functioning of the Courts was not left proper. Therefore, it would not be unjustified, if the petitioner is granted one effective opportunity to lead his evidence, and thereafter, to contest the suit accordingly, however, by putting him under an appropriate financial burden; so as to make him realize his mistake in wasting time of the Court.

In view of the above, the present petition is allowed, the impugned order passed by the trial Court is set aside and the trial Court is directed to grant one effective opportunity to the petitioner to lead his evidence and thereafter, to contest the suit accordingly, however, subject to payment of Rs.10,000/- as costs; to be deposited by the petitioner with the Poor Patients Welfare Fund, PGIMER, Chandigarh, within a period of 15 days from today.

However, it is clarified that the trial Court shall grant the aforesaid opportunity to the petitioner only on production of the receipt of the costs having been deposited by the petitioner, as ordered above.

(RAJBIR SEHRAWAT)
JUDGE

17.05.2023
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No