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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-3130-2023 (O&M)

Date of decision: May 19, 2023

Tarlok Singh

....Petitioner

versus

Kuldeep Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Neeraj Yadav, Advocate for the petitioner.

ARUN MONGA, J. (ORAL)

Present revision petition *inter alia* is for setting aside impugned order 31.03.2023 (Annexure P-3) whereby learned Civil Judge (Junior Division), Amritsar has closed the evidence of petitioner/defendant No.1.

2. Succinct facts first.

2.1. Respondent No.1/plaintiff filed suit seeking permanent injunction restraining petitioner and other defendants or their agents, supporters, attorneys, privies etc. from interfering into lawful use of plaintiff as per his turn of Tubewell connection for irrigating his land measuring 5 Kanals 10 Marlas installed in the revenue estate of village Jhite Kalan, Tehsil and District Amritsar.

2.2. Issues were framed on 31.03.2021. Evidence of respondent No.1/plaintiff was concluded on 06.01.2023 by order. Thereafter, evidence of defendant started on 17.01.2023 and very short dates were given by learned trial Court. Ultimately, vide impugned order dated 31.03.2023 (Annexure P-3), evidence of defendant No.1/petitioner was closed by Court order.

3. Learned counsel for petitioner argues that while on one hand plaintiff took as long as 2 years to adduce his evidence during which period, he was given more than 14 opportunities for the needful; on the other hand, defendant No.1 has

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been subjected to hostile disparity, inasmuch as he was given merely 5 opportunities that too spread over a short span of 2 months as against 24 months given to plaintiff.

4. Considering the nature, facts and circumstances of the case, issuance of notice to respondent No.1/plaintiff seems unnecessary and is, therefore, dispensed with.

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

6. Trite law it is that procedure is the handmaid of justice and, ought not be given precedence at the cost of subjugation of substantive justice. The procedural provisions 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 conclude evidence. Trial in injunction suit may lead to unjust consequences in the absence of further opportunity to petitioner to lead evidence.

7. In the peculiar premise, impugned order dated 31.03.2023 (Annexure P-3) is set aside. Learned trial Court shall grant two effective opportunities to petitioner/defendant No.1 for concluding his evidence. However, it is made clear that learned trial Court shall be at liberty to grant further opportunity depending upon its work exigencies.

8. Disposed of, accordingly.

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

(ARUN MONGA)
JUDGE

May 19, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No