

123 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No. 3342 of 2023(O&M)

Date of Decision: 07.08.2023

Chhotu Ram

...Petitioner

Versus

The Executive Engineer, PWD B&R

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Naveen Batra, Advocate
For the petitioner.**

KARAMJIT SINGH, J.

1. The present revision petition has been filed by the petitioner/ plaintiff for setting aside the order dated 13.03.2023 (Annexure P-3) passed by the Court of Additional Civil Judge(Sr.Divn.), Anandpur Sahib whereby the evidence of the petitioner has been closed by order in civil suit titled Chhotu Ram Vs. The Executive Engineer, PWD(B&R) having No. CS/88/2019.

2. The counsel for the petitioner submits that the respondent- Department intended to encroach the property belonging to the petitioner and being aggrieved the petitioner filed suit for permanent injunction against the respondent. That the issues were framed by the trial Court and then the case was fixed for evidence of petitioner in January, 2020. In the meantime, Covid-19 infection started spreading and the Courts started working in restricted manner and as such the petitioner was unable to conclude his evidence and finally the learned trial Court passed impugned order without taking into consideration the fact that during the interregnum period the Courts were not fully functional. The counsel for the petitioner further

submits that there was no intention on the part of the petitioner to delay the proceedings. So, prayer is made that one more opportunity be provided to the petitioner to conclude his evidence.

3. I have considered the submissions made by counsel for the petitioner.

4. Undoubtedly, the provision of Order 18 Rule 17-A CPC was deleted w.e.f 1.07.2002. The Hon'ble Apex Court in **Salem Advocate Bar Association, Tamil Nadu Vs. Union of India, (2005) 6 SCC 344** has held that in spite deletion of provision of Order 18 Rule 17-A CPC, the right to produce evidence at later stage by way of additional evidence is not taken away and the Court has inherent power to exercise jurisdiction for advancement of justice in terms of provisions under Section 151 CPC. Provisions under Section 151 CPC recognizes the discretionary power inherent in every Court as a necessary corollary for rendering justice in accordance with law and to secure the ends of justice and to prevent abuse of process of law.

5. In the instant case, testimony of petitioner and other witnesses is required for the just decision of the case. Further, it is settled position that the Court has to advance substantive justice and while doing so the approach of the Court should be pragmatic and oriented towards only rendering substantive and complete justice and procedural technicalities should not be given precdence over the substantive justice. Further, in the present case it appears that the delay in recording of evidence occurred due to spread of Covid-19 pandemic and there was no deliberate delay on the part of the petitioner to conclude his evidence. In the given circumstances, this Court is of the view that no prejudice is going to be caused to the other party if the

petitioner is granted one last opportunity to conclude his evidence. However, for the same the petitioner is to be burdened with cost.

6. For the foregoing reasons, the instant petition is allowed. The impugned order is set aside and one last opportunity is granted to the petitioner to conclude his evidence subject to cost of Rs.5000/- which is to be deposited by the petitioner with the District Legal Services Authority concerned by the next date fixed before the trial Court.

7. Keeping in view the nature of order being passed, no notice is required to be issued to the respondent. However, if he feel dis-satisfied with this order, he may move an application to recall the same.

(KARAMJIT SINGH)
JUDGE

07.08.2023

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No