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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.116

CR-3527-2023
Date of Decision: 02.06.2023

RAVINDER KUMAR AND ANOTHER

...Petitioners

Versus

BISHAN SINGH AND ANOTHER

....Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr. Kamal Chaudhary, Advocate,
for the petitioners.

ARCHANA PURI, J. (ORAL)

Challenge in the present revision petition is to the order 19.04.2023 passed by learned Lower Court, whereby evidence of the petitioners/defendants was closed, by order. Further, challenge is to the order dated 01.12.2021, whereby cross-examination of the respondents/plaintiffs was treated '*Nil*'.

It is submitted by learned counsel for the petitioners that it was solely on account of the conduct of the previous counsel representing the petitioners before learned Lower Court, that the evidence of the petitioners/defendants was not led despite three effective opportunities and the evidence was resultantly closed by order vide the impugned order dated 19.04.2023. However, learned counsel for the petitioners submits that it was solely on account of the conduct of the appearing counsel, at the relevant time,

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that the cross-examination of the respondents/plaintiffs was treated as '*Nil*', vide order dated 01.12.2021, which is also under challenge.

Perusal of the order dated 01.12.2021 reveals about the examination-in-chief of PW-1, Bishan Singh, respondent No.1/plaintiff No.1, to have been recorded on 10.02.2020, but his cross-examination was deferred and thereafter, despite availing several opportunities, no cross-examination was conducted and feeling constrained, learned Lower Court had considered the cross-examination as '*Nil*'. On query by the Court, as to why the cross-examination was not conducted, learned counsel submits that needful was not done, solely on account of the conduct of previous counsel, representing the petitioners before learned Lower Court.

However, the order dated 01.12.2021 was passed, nearly after two years of the tendering of affidavit into evidence. Considering the delay, in approaching this Court to challenge the order dated 01.12.2021, no case, as such, is made out to provide further opportunity to the petitioners to conduct cross-examination of PW-1, Bishan Singh. Hence, the revision petition qua the same is hereby dismissed.

Copies of zimini orders of the dates prior to passing of the impugned order have been supplied in the Court today and the same are taken on record. So far as, other order dated 19.04.2023 is concerned, perusal of the zimini orders reveals that no evidence of the petitioners/defendants, as such, was led.

Even though, the litigant ought to remain vigilant and pursue the litigation, but considering the extent of confidence reposed in the counsel in

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general and also in the interest of justice, the impugned order dated 19.04.2023 is hereby set aside and one opportunity is given to the petitioners/defendants to lead entire evidence, at own responsibility. The next date fixed before learned Lower Court is stated to be 06.07.2023. However, the respondents/plaintiffs must not be aware of the examination of the witnesses, as ordered aforesaid, thus on the date fixed i.e. 06.07.2023, learned Lower Court shall adjourn the case for a period of about 15 days and on the next date, so fixed by learned Lower Court, the entire evidence ought to be examined at the instance of the petitioners/defendants and cross-examination be also conducted on that very date.

However, in the eventuality of any constrained circumstances, coming forth, before learned Lower Court, with regard to the examination/cross-examination of the witnesses of the petitioners/defendants, the same shall be completed within a period of seven days, after the date, so fixed by learned Lower Court.

Accordingly, the instant revision petition stands disposed of.

(ARCHANA PURI)
JUDGE

02.06.2023
Himanshu

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