

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

Civil Revision No. 4464 of 2023(O&M)

Date of Decision: 08.08.2023

Kiran Bala

...Petitioner

Versus

Mohit Kumar & Anr.

...Respondents

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Varun Mittal, Advocate
For the petitioner.**

KARAMJIT SINGH, J.

1. The present revision petition has been filed by the petitioner/ plaintiff for setting aside order dated 04.07.2023 (Annexure P-1) passed by the Court of Civil Judge (Jr. Divn.), Ambala whereby the evidence of the petitioner has been closed by order in Civil Suit titled Kiran Bala Vs. Mohit Kumar & Ors.

2. The counsel for the petitioner submits that there was no delay on the part of the petitioner to conclude her evidence. The counsel for the petitioner further made prayer that the evidence of the petitioner has been closed by order by the learned trial Court and that one more opportunity be granted to the petitioner to conclude her evidence.

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

4. There is no doubt that the petitioner had already availed number of opportunities before the impugned order was passed by the learned trial Court. The provision of Order 18 Rule 17-A CPC was deleted w.e.f.

01.07.2002 but even thereafter the Hon'ble Supreme Court in **Salem Advocate Bar Association, Tamil Nadu Vs. Union of India (2005)6 SCC 344** held that in spite deletion of provision of Order 18 Rule 17-A CPC, the right to produce evidence at a later stage by way of additional evidence is not taken away as the Court has inherent power under Section 151 CPC for advancement of justice.

5. In the instant case, testimony of petitioner is required for just decision of the case. The Court has to advance substantive justice and procedural technicalities should not be given precedence over the substantive justice. 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 her evidence. However, to balance the equities, the petitioner could be burdened with cost.

6. For the foregoing reasons, the present petition is allowed. The impugned order is set aside and one last opportunity is granted to the petitioner to conclude her evidence subject to cost of Rs.10,000/- which is to be paid by the petitioner to the opposite party on 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

08.08.2023
Jiten

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