

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-4338-2023 (O&M)
Date of Decision:-03.08.2023

AVTAR SINGH

... Petitioner

Versus

KULDEEP SONI AND ORS.

... Respondents

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CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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Present:- Mr. Amandeep Saini, Advocate
for petitioner.

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KARAMJIT SINGH, J. (Oral)

1. The present revision petition has been filed by the petitioner/plaintiff for setting aside the impugned order 19.7.2023 (Annexure P-7) passed by the court of learned Civil Judge (Junior Division), Dera Bassi whereby the evidence of the petitioner has been closed by order in civil suit titled as Avtar Singh vs. Kuldeep Soni etc.
2. The counsel for the petitioner submits that petitioner has filed suit for recovery of ₹71,73,750/- against respondents No.1 to 4. That after framing of issues the case was fixed for evidence of the petitioner. That petitioner examined-in-chief PW-1 and PW-2, however number of opportunities were taken by the counsel for defendants to cross-

examine both the said PWs as is evident from Annexure P-2 to P-5.

The counsel for the petitioner further submits that on 19.7.2023, the petitioner failed to produce his witnesses due to some unavoidable circumstances, as on that day, the petitioner fell ill and was advised bed rest as is evident from medical certificate (Annexure P-8) issued by qualified doctor. The counsel for the petitioner further submits that there is no intention on the part of the petitioner to delay the proceedings. So the counsel made prayer that one more opportunity be provided to the petitioner to adduce his entire remaining 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. 1.7.2002. However, the Hon'ble Supreme Court in **Salem Advocate Bar Association, Tamil Naidu vs. Union of India (2005)6 SCC 344**, held that inspite 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 always inherent power to exercise jurisdiction for advancement of justice in terms of provisions under Section 151 CPC. Thus it is clear that the Court in exercise of power conferred under Section 151 CPC can allow any party to adduce evidence even at a later stage, if it is necessary in the interest of justice.
5. Admittedly in the instant case, testimony of the petitioner and other witnesses is required for just and proper decision of the case. Further it is settled position that Court should render substantial justice. The appropriate approach should be oriented only towards rendering

substantial justice and the technical rules of procedure should not be given precedence over the substantial justice. Furthermore in the instant case, it appears that there was no deliberate neglect on the part of the petitioner to complete 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 afforded one last opportunity to conclude his evidence. But to balance the equities, the same will be subject to payment of costs.

6. In view of the above, the revision petition is allowed, the impugned order is set aside and one last opportunity is granted to the petitioner to conclude his evidence subject to payment of cost of ₹7,500/- to be paid to the opposite party on the next date fixed before the trial Court.
7. Keeping in view the circumstances mentioned above, this petition is being disposed of without issuing any notice to the opposite party. However, liberty is granted to respondents No.1 to 4 that if they feel dissatisfied with this order, they may move an application to recall the same.

03.08.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No