

126 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No. 4418 of 2023(O&M)

Date of Decision: 07.08.2023

Smt. Balesh

...Petitioner

Versus

Narsa & Ors

...Respondents

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Sameydeen, 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 01.07.2023 (Annexure P-1) passed by the Court of Additional Civil Judge(Sr.Divn.), Samalkha whereby the evidence of the petitioner has been closed by order in civil suit titled Smt. Balesh Vs. Narsa etc. having No. 275 of 2017.

2. The counsel for the petitioner submits that there was no delay on the part of the petitioner to conclude her evidence. That actually petitioner filed an application seeking permission of the trial Court to examine her husband as her attorney and the learned trial Court did not pass any order on the said application and in the meantime closed the evidence of the petitioner vide impugned order dated 01.07.2023. So, prayer is made that one more opportunity be granted to the petitioner to conclude her evidence.

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

4. The provision of Order 18 Rule 17-A CPC was deleted w.e.f. 01.07.2002. The purpose of deletion of said provision is to expedite trial of the case. However, even after deletion of said provision, the Court in exercise of power conferred under Section 151 CPC can allow any party to lead evidence even at a later stage, if it is necessary in the interest of justice. In this context, reference is made to decision of Hon'ble Supreme Court in **Salem Advocate Bar Association Tamil Nadu Vs. Union of India, 2005 (6) SCC 344**, wherein it has been 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.

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 predence 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, 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.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 respondents. However, if they feel dis-satisfied with this order, they may move an application to recall the same.

07.08.2023

Jiten

(KARAMJIT SINGH)
JUDGE

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