

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Sr. No. 256)**

(1)

**CR No. 4972 of 2019
Date of Decision : 01.05.2023**

Amarjit Singh**...Petitioner****Versus****Davinder Singh****...Respondent**

(2)

CR No. 4019 of 2019**Amarjit Singh****...Petitioner****Versus****Davinder Singh****...Respondent*****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI***

Present: Ms. Ramandeep Kaur, Advocate for
Mr. K.S. Chahal, Advocate for the petitioner.

Mohd. Yousaf, Advocate for the respondent.

Harsimran Singh Sethi J. (Oral)

1. By this common order, two civil revision petitions, the details of which have been given in the heading of the order, are being decided as both the civil revision petitions arised out of the same proceeding before the trial court.

2. The petitioner had filed a civil suit for the recovery of ₹1,35,000/- against the respondent-defendant. On 01.07.2019, the evidence

of the petitioner-plaintiff was closed by order. Thereafter, the petitioner-

plaintiff filed an application for directing the respondent-defendant to produce the original cheque or in the alternative to give permission to the petitioner-plaintiff to prove the said cheque by way of secondary evidence. The said application was dismissed by the trial court on 28.05.2019. Both the orders i.e. order dated 01.07.2019 and 28.05.2019 has been challenged by the petitioner-plaintiff by filing CR No. 4972 of 2019 and CR No. 4019 of 2019 respectively.

3. Learned counsel for the petitioner argues that keeping in view the fact that the evidence of the petitioner-plaintiff was closed by Court vide order dated 01.07.2019, he had no other option but to file an application subsequently for seeking production of the original cheque in question or to allow him to produce the secondary evidence to prove the said cheque.

4. It may be noticed that once, prior to the filing of the application seeking the direction to the respondent-defendant to produce the cheque in question or to allow the petitioner-plaintiff to prove the said cheque by way of secondary evidence, the evidence of the petitioner-plaintiff had already been closed, hence, the question of allowing the petitioner-plaintiff to prove the cheque in question through secondary evidence does not arise. Faced with this situation, learned counsel for the petitioner submits that one more opportunity be given to conclude the evidence and to prove the cheque in question through secondary evidence even if the said opportunity is to be granted by imposition of cost.

5. Learned counsel for the respondent objects to the said prayer on the ground that enough opportunities have already been granted to the petitioner-plaintiff to produce his evidence and the proceedings are being

delayed, which fact is causing prejudice to the respondent-defendant.

6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. In the present case, the only prayer of the petitioner-plaintiff is to allow him one opportunity to lead entire evidence, even if the said opportunity is to be granted by imposing cost. The objection of the respondent-defendant is that enough opportunities have already been granted and only the delaying tactics are being adopted by the petitioner-plaintiff to keep the said proceedings pending and further the respondent-defendant does not have the cheque in his possession, hence, question of producing the same does not arise.

8. As per the settled principle of law, all the disputes between the parties need to be decided on merits by giving due opportunities as far as possible. Only one further opportunity is being claimed by the petitioner-plaintiff to lead all his evidence including the proving of the cheque in question by way of secondary evidence. The delay, due to which, prejudice is being claimed by the respondent-defendant, can be compensated by imposition of cost.

9. Keeping in view the above mentioned facts, the impugned orders dated 28.05.2019 and 01.07.2019 are set-aside. The petitioner-plaintiff is directed to produce all his entire evidence including the proving of cheque by way of secondary evidence in the next two hearings before the trial court and no further date will be given for the said purpose. In case, the said opportunities are not availed by the petitioner-plaintiff, the trial court will not grant any further opportunity even if the evidence sought to

be brought on record by the petitioner-plaintiff has not been brought on record. However, the said opportunity will be availed by the petitioner-plaintiff subject to payment of Rs. 10,000/- as cost to the respondent-defendant to compensate them for the delay caused.

10. Civil revision petitions are allowed in above terms.

May 01, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No