

129 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No. 4500 of 2023(O&M)
Date of Decision: 10.08.2023

Sanjay Kumar Luthra

...Petitioner

Versus

Sanjeev Kumar

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. M.S. Rana, Advocate
For the petitioner.**

KARAMJIT SINGH, J.

1. The present revision petition has been filed by petitioner/defendant for setting aside the impugned order dated 28.03.2023 (Annexure P-1) passed by the Court of learned Civil Judge(Jr.Divn.), Jalandhar whereby the evidence of petitioner has been closed by order and order dated 03.05.2023 (Annexure P-2) whereby the application filed by the petitioner for review of the aforesaid order dated 28.03.2023 has been dismissed.

2. The counsel for the petitioner submits that the evidence of the petitioner commenced on 20.03.2020 and in the meantime lock down was imposed due to spread of Covid-19 infection and the Courts started working in a restricted manner. That meanwhile the counsel who was representing the petitioner permanently went to foreign country and the petitioner came to know about the same, lateron. In the meanwhile, an application under Order 1 Rule 10 CPC was also filed on behalf of the petitioner but the same was dismissed by the learned trial Court on 09.03.2023 and immediately

thereafter the evidence of the petitioner was closed by order by the trial Court vide impugned order dated 28.03.2023 (Annexure P-1) and even the review application was dismissed by the said Court vide order dated 03.05.2023. The counsel for the petitioner apprised the Court that in the present case dispute is between two real brothers. The counsel for the petitioner further argued that there was no intention on the part of the petitioner to delay the proceedings before the learned trial Court. The counsel for the petitioner made prayer that one more opportunity be granted to the petitioner to conclude his 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, it appears that there is no deliberate neglect or inaction on the part of the petitioner to conclude his evidence. In the given circumstances, interest of justice would be served if a final opportunity is

given to the petitioner to conclude his evidence by examining the unexamined witnesses. But the same will be subject to payment of costs.

6. Accordingly, both the impugned orders are set aside and one last opportunity is granted to the petitioner to conclude his evidence subject to payment of costs of Rs.10,000/- to be paid to 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. If respondent is summoned to contest this litigation, he will have to incur huge expenses to defend this case. However, liberty is granted to the respondent that if he feels dissatisfied with this order, he may move an application to recall the same.

10.08.2023

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(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No