

133 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-4852-2023

Date of decision: 17.10.2023

SANJAY

...PETITIONER

V/S

JOGINDER

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Surender Saini, Advocate for the petitioner.

Mr. Bhanu Udai, Advocate for

Mr. Vikas Gulia, Advocate for respondent.

SANJAY VASHISTH J. (ORAL)

Present revision petition has been filed by the defendant challenging the order dated 25.07.2023, whereby Court of learned Civil Judge, (Senior Division), Sonapat has dismissed the application for granting of opportunity to examine the two witnesses i.e. 1. Bank Manager and 2. Kamlesh (wife of Sanjay), by way of additional evidence.

2. Learned counsel for the petitioner submits that the application moved by the defendant (petitioner herein) has been dismissed on non-tenable grounds and primarily for the reason that it has been moved after availing seven effective opportunities to conclude the evidence and since the case is an old one and is covered under the action plan; permission to examine afore-said two witnesses has been declined.

3. Learned counsel appearing before the Court on behalf of the respondent submits that the purpose behind this act of the defendant is to prolong the trial. Otherwise, it was expected from the defendant to conclude his

complete evidence during the time, when seven effective opportunities were granted by the trial Court.

4. On the other hand, learned counsel for the petitioner submits that subject to the payment of cost to compensate the plaintiff, if one last opportunity is afforded to the defendant for leading additional evidence, he undertakes to not to delay the trial proceedings. Moreover, it is clear that the necessity to examine the said witnesses is to bring on record the amount lying in the bank account of the defendant by producing the Bank Manager etc.

5. Taking note of all the facts and circumstances and the principles of natural justice that “No one should be deprived of getting a reasonable opportunity for the purpose of leading the evidence to prove the pleadings, whether by the plaintiff or defendant”, present petition is allowed subject to the payment of cost of Rs.15,000/- to be paid to the respondent-plaintiff. The required evidence which petitioner/defendant proposes to lead as additional evidence should be produced before the trial Court after furnishing all the required particulars within the next 15 days from today.

6. For the said purpose, the trial Court would grant only one effective opportunity, which would be treated as final one and in any case, the petitioner/defendant will not be entitled to owe more than one effective opportunity. It is further made clear that evidence is to be produced by the petitioner/defendant at his own risk with the aforementioned terms, at which petition is allowed.

7. In view of the aforementioned reasoning recorded, impugned order dated 25.07.2023 is hereby set aside to the extent of declining the request

of petitioner/defendant to lead additional evidence.

8. Present petition stands disposed of accordingly.

October 17, 2023
manisha

(SANJAY VASHISTH)
JUDGE

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|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |