

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

202

CR No.3982 of 2022

Date of Decision : 13.04.2023

Sunder Singh

....Petitioner

VERSUS

Ishwar Singh and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Raman Chawla, Advocate for the petitioner.

Mr. D.S. Nain, Advocate for respondent Nos.1 and 2.

Mr. Ram Kumar Saini, Advocate for respondent No.3.

ALKA SARIN, J. (Oral)

1. The present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 03.09.2022 passed by the Trial Court whereby the evidence of the plaintiff-petitioner has been closed by order of the Court.

2. Learned counsel for the plaintiff-petitioner would contend that the issues in the present case were framed on 13.05.2022 and thereafter on 03.09.2022 the evidence of the plaintiff-petitioner was closed by order of the Court. It is submitted that an application for summoning of witnesses was also filed which has been treated as a via-media for bypassing the directions issued by the Court on 24.08.2022. It is contended that grave injustice shall be caused to the plaintiff-petitioner if the impugned order is not set aside.

3. *Per contra* learned counsel for the defendant-respondents have contended that despite numerous opportunities the evidence was not led and hence the Court has rightly passed the order closing the evidence of the plaintiff-petitioner.

4. In the present case, as is apparent from a perusal of the orders appended with the petition, the issues were framed on 13.05.2022. Thereafter, the matter was taken up on 04.07.2022 and no witness was present and the same was adjourned to 04.08.2022. On 04.08.2022, yet again, no witness was present and the plaintiff-petitioner was directed to conclude his entire evidence at the earliest. On 24.08.2022, the following order was passed :

“Today one PW Sunder Singh is present and examined in chief as PW1 by way of tendering affidavit Ex.PW1/A alongwith documents Ex.P1 to Ex.P4 into evidence. However, cross-examination of PW1 Sunder Singh is deferred on request of ld. Counsel for plaintiff as he wants to go through the affidavit and documents. Evidence is recorded by LC Ms. Kamlesh Adv. Fees is paid by the party as per instructions of Hon’ble High Court. Adjournment is granted subject to cost of Rs.500/- to be paid to the witness by the defendants on the next date of hearing. Now to come up on 03.09.2022 for completion of cross-examination of PW1 and for concluding entire remaining evidence of plaintiff at own responsibility failing which evidence of plaintiff shall be closed by court orders. PW1 stands discharged for today and bound down for date fixed.”

5. Thereafter, vide the impugned order dated 03.09.2022 the Court closed the evidence of the plaintiff-petitioner.

6. Learned counsel for the petitioner has pointed out that the costs of Rs.500/- stood paid as imposed vide order dated 24.08.2022.

7. Though, the plaintiff-petitioner has been remiss in leading his evidence, however, in order to do complete justice between the parties, an opportunity is granted to the plaintiff-petitioner to lead his entire evidence. The Trial Court shall grant two effective opportunities to the plaintiff-petitioner to lead his entire evidence at his own risk and responsibility, subject to payment of costs of Rs.15,000/- to respondent Nos.1 and 2 and Rs.15,000/- to respondent No.3.

8. Disposed off in the above terms. Pending applications, if any, also stand disposed off.

13.04.2023
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO