

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.125

Case No. : C. R. No. 5486 of 2023

Date of Decision : October 04, 2023

Rakesh Yadav		Petitioner
vs.		
District Town Planner (Enforcement Gurugram) and another		Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Ms. Parul Sharma, Advocate
for the petitioner.

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GURBIR SINGH, J. :

1. Challenge in this revision petition filed under Article 227 of the Constitution of India is to the order dated 11.07.2023 (Annexure P-5), passed by learned Civil Judge (Junior Division), Gurugram (for brevity – Trial Court) whereby evidence of the petitioner-plaintiff has been ordered to be closed.
2. The case of the petitioner, in brief, is that the petitioner filed a suit for permanent injunction against the respondents restraining them from demolishing or removing any part of the suit property or from interfering into peaceful possession of the petitioner over the suit property.
3. Learned counsel for the petitioner, at the outset, has submitted that the petitioner has already stepped into the witness box as PW-1 but his cross-examination could not be recorded. Therefore, it has been prayed that

only one opportunity be granted to the petitioner to conclude his entire evidence.

4. I have heard the submissions made by learned counsel for the petitioner and have also perused the case file.

5. Notice of the present petition is not being issued to the respondents as it may put financial burden on the respondents. They would also get an opportunity to cross-examine the witnesses examined by the petitioner.

6. Although there is some inaction on the part of the petitioner but this Court is of the view that a person should not be non-suit merely on the basis of technicalities. In the case in hand, no prejudice would be caused to the respondents, if one opportunity is granted to the petitioner to conclude his evidence. On the other hand, the respondents can also be compensated with costs.

7. In view of the above facts and circumstances, this revision petition is allowed and the impugned order dated 11.07.2023, passed by learned Trial Court), whereby evidence of the petitioner has been closed by Court order, is set aside and it is directed that one opportunity be granted to the plaintiff-petitioner to lead and conclude his evidence on the date to be fixed by the learned Trial Court as per its convenience, but subject to payment of Rs.5,000/- as costs, to be paid to the respondents. In case of default regarding payment of costs, this order shall be deemed to have been vacated.

8. It is further made clear that if the defendants/respondents are

not satisfied with this order, they can challenge the same by filing application within 30 days.

9. Pending applications, if any, shall stand disposed of along with this judgment.

October 04, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.