

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**Civil Revision No. 5693 of 2023(O&M)
Date of Decision: 12.10.2023**

Om Parkash

...Petitioner

Versus

Santosh

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Manoj Kaushik, Advocate
For the petitioner.**

KARAMJIT SINGH, J.

1. The present revision petition has been filed by the petitioner/defendant for setting aside the impugned order dated 22.08.2023 (Annexure P-3) passed by the Court of Civil Judge (Sr.Divn.), Jhajjar whereby the evidence of the petitioner has been closed by order in civil suit titled Smt. Santosh Vs. Om Parkash, CS-990-2016.

2. The counsel for the petitioner while assailing the impugned order, *inter alia*, contends that after framing of the issues the suit was fixed for evidence of respondent/ plaintiff and she concluded her evidence on 11.11.2022. Thereafter, the case was fixed for evidence of the petitioner but due to some unavoidable circumstances the petitioner failed to lead any evidence and finally the evidence of the petitioner was closed by the trial Court vide order dated 22.08.2023 (Annexure P-3). The counsel for the petitioner further submits that there was no intention on the part of the petitioner to delay the proceedings in the suit. The counsel for the petitioner made prayer that one last opportunity be granted to the petitioner to conclude his evidence.

3. I have considered the submissions made by counsel for the petitioner.

4. No doubt the provision of Order 18 Rule 17-A CPC was deleted w.e.f. 01.07.2002, with the purpose to expedite trial of the case. However, even after the deletion of said statutory provision, there is inherent power with the Court under Section 151 CPC to allow any party to adduce evidence even at a later stage, if it is required in the interest of justice. Even the Hon'ble Supreme Court in **Salem Advocate Bar Association, Tamil Nadu, Vs. Union of India 2005(6) SCC 344** has held that inspite deletion of provision of Order 18 Rule 17-A CPC, the Court has always inherent powers to exercise jurisdiction for advancement of justice in terms of provisions under Section 151 CPC.

5. In the present case the evidence of the petitioner is required for just decision of the case. Keeping all the facts and circumstances of the case in view and even accepting that the petitioner was negligent in his conduct, closing his evidence will be the extreme penalty when the other party could have been compensated by reasonable cause. The interest of justice would also be served if final opportunity is given to the petitioner to complete his evidence. But the same will be subject to payment of costs.

6. Accordingly, the impugned order is set aside and one last opportunity is granted to the petitioner to conclude his evidence subject to payment of costs of Rs.5000/- to be paid to the opposite party on the next date fixed before the trial Court.

7. Keeping in view the nature of order being passed, no notice is required to be issued to the respondent. However, if she feels dis-satisfied with this order, she may move an application to recall the same.

(KARAMJIT SINGH)
JUDGE

12.10.2023
Jiten

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No