

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

205

CR-7236-2019 (O&M)
Date of Decision :17.01.2023

Sarabjeet Kaur and another

...Petitioners

Versus

Balvir Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Jasneet Mehra, Advocate for
Mr. Amrainder Singh, Advocate for the petitioners.

Mr. Jaideep Verma, Advocate for respondent No.1.

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Harsimran Singh Sethi, J. (Oral)

CM-23616-CII-2019

As prayed for, application is allowed.

CR-7236-2019

In the present revision petition, challenge is to order dated 14.08.2019 passed by the trial Court by which, the evidence of the petitioners-defendants has been closed by an order as well as order dated 03.10.2019 by which, review application filed by the petitioners-defendants has been dismissed by the trial Court.

Learned counsel for the petitioners-defendants submits that one more opportunity be granted to the petitioners-defendants to lead the remaining evidence so that parties do not suffer any prejudice qua merits of the case, though, it is conceded that number of opportunities were already given to the petitioners-defendants to conclude their evidence.

Learned counsel for the respondents/plaintiffs submits that all the efforts were made to delay the proceedings as despite the grant of 27 opportunities by the trial Court, the petitioners-defendants failed to adduce the evidence and the trial Court closed their evidence by an order, keeping in view the number of opportunities granted to the petitioners-defendants, which the petitioners-defendants failed to encash.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

A Coordinate Bench of this Court while issuing notice of motion has recorded the statement of the petitioners-defendants that they will avail only one effective date to conclude their entire evidence and for the delay, they are ready to pay cost to the respondents-plaintiffs.

Though, it has come on record that sufficient number of opportunities have already been extended to the petitioners-defendants to lead their evidence, which they failed to do so but keeping in view the settled principle of law that the lis between the parties should be adjudicated on merits after giving due opportunities, hence, one last opportunity can be granted to the petitioners-defendants to conclude their evidence subject to payment of cost so as to compensate the respondents-plaintiffs so that plaintiffs will not suffer any loss qua the merits of the case but only qua the delay in conclusion of the proceedings.

It may be noticed that impugned order was passed on 14.08.2019 and more than three and a half years have already elapsed as the petition was pending before this Court though, delay has already occurred after passing of the impugned order but the respondents-plaintiffs can be compensated for the delay which occurred due to the prayer of the

petitioners-defendants so as to seek one opportunity to lead entire evidence.

Keeping in view the above, order dated 14.08.2019 as well as order dated 03.10.2019 passed by the trial Court are set aside. One more opportunity is granted to the petitioners-defendants to lead their entire evidence and the said opportunity will be available to the petitioners-defendants on the next date of hearing fixed before the trial Court or on the adjourned date fixed by the trial Court on the next date of hearing so as to lead entire evidence. In case the said opportunity is not availed by the petitioners-defendants, the evidence which has already come on record, will be treated as the entire/final evidence on behalf of the petitioners-defendants and no further opportunity will be granted to the petitioners-defendants.

In order to compensate the respondents/plaintiffs for the delay which has occurred, as undertaken by the learned counsel for the petitioners-defendants, which is also a part of the order dated 16.11.2019 passed by a Coordinate Bench of this Court while issuing notice of motion, petitioners-defendants are directed to pay a sum of Rs.15,000/- as cost to the respondents-plaintiffs. It is made clear that only after the payment of the said cost to the respondents-plaintiff, the petitioners-defendants will be eligible to lead evidence under the present order.

Petition stands allowed in above terms.

January 17, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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