

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

109

CWP-25652-2023

Date of decision: 06.12.2023

DEEPAK MAHAJAN

.....Petitioners

VERSUS

UMA MAHAJAN AND ANOTHER

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Mr. J.S. Chandail, Legal Aid Counsel with
Petitioner in person.

VINOD S. BHARDWAJ, J. (Oral)

Prayer made in the present writ petition is for seeking issuance of directions to the trial Court to expeditiously decide the pending civil suit.

At the request of the petitioner, a Legal Aid Counsel had been appointed to assist this Court so as to put forth the claim of the petitioner. The nominated Legal Aid Counsel was also required to look into the relevant zimni orders and to assist this Court as to whether the delay has occasioned as a result of any lapse on the part of the Court or is attributable to the acts/omission on the part of the petitioner considering that the suit was already proceeded as ex-parte against the defendants and the petitioner being the plaintiff was at liberty to steer the pace of the suit itself.

On resumed hearing, Legal Aid Counsel has fairly informed that he has gone through the zimni orders passed by the Court below, however, the petitioner does not want the same to be placed on

the record. On a pointed query, it has been apprised by him that the suit in the present case was instituted on 25.05.2016 for seeking possession by way of a partition as well as for injunction against the defendants therein. While defendant No.1 was proceeded against ex-parte on 19.07.2018. Defendant No.2 had filed his reply on 05.02.2019 and issues were framed on the same date. The matter was thereafter fixed for recording of plaintiff evidence on 25.03.2019. The same remained pending for leading of evidence on the part of the plaintiff-petitioner. The defendant No.2 was also proceeded against ex-parte later in point of time. However, the petitioner thereafter moved an application under Order 6 Rule 17 for seeking amendment of the plaint and also moved an application under Order 1 Rule 13 alongwith application under Order 39 Rule 1 and 2, all of which are pending for consideration before trial Court for 07.12.2023. He also fairly informs that the petitioner had carried out changes of three different counsel including two granted under the Legal Aid.

Chronology of facts noticed above reflects that the petitioner-plaintiff has himself failed to conclude its evidence despite the case having been fixed for recording of plaintiff evidence since 25.03.2019. If there is no lapse attributable to any Court proceeding resulting in delay, the petitioner, who is himself the cause of delay, would not be justified in finding fault with the pace of the suit and alleging delay to the Court. His undesirability to place on record the zimni orders leads to an inference that he wants to conceal more than he wishes to reveal.

The conduct of the petitioner does not inspire confidence

and the delay is evidently attributable to his own lapses and multiplicity of miscellaneous applications. Considering that none of the defendants is appearing before the trial Court and have already been proceeded against ex-parte, it cannot be assumed or alleged that the delay is attributable to any deliberate act or omission on the part of the defendants therein.

The petitioner, however, submits that he shall not seek any adjournment in the matter and that he would expeditiously conclude his evidence. Needless to mention that in the event of the petitioner diligently pursuing his case and concluding evidence before the Civil Court, the proceedings shall be conducted expeditiously.

Petition is accordingly disposed of.

(VINOD S. BHARDWAJ)
JUDGE

DECEMBER 06, 2023

Vishal sharma

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