

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.111

Case No. : C. R. No.6624 of 2023

Date of Decision : November 09, 2023

Virender

.... Petitioner

vs.

Kuldeep

.... Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Parveen Kaushik, Advocate
for the petitioner.

* * *

GURBIR SINGH, J. :

1. Challenge in this revision petition filed under Article 227 of the Constitution of India is to the order dated 04.10.2023 (Annexure P-4), passed by learned Civil Judge (Junior Division), Bahadurgarh (for brevity – Trial Court) whereby evidence of the petitioner-defendant has been ordered to be closed.

2. The case of the petitioner, in brief, is that the respondent-plaintiff filed a suit for declaration and possession, in which written statement was filed by petitioner-defendant.

3. Learned counsel for the petitioner, at the outset, has submitted that the evidence of the respondent-plaintiff was closed on 05.07.2023 and the case was fixed for 07.08.2023 for evidence of the petitioner-defendant. It has further been submitted that evidence of the petitioner-defendant was closed by court order on 04.10.2023, stating therein that five effective

opportunities have already been granted. Learned counsel has further submitted that the petitioner could not be present on five dates due to medical issues and being hospitalized. It has also been apprised to this Court that out of the aforesaid five dates, on one date, the case was taken up two days before the date fixed. Therefore, it has been prayed that only two opportunities be granted to the petitioner to conclude his evidence, failing which he would suffer irreparable loss.

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 respondent as it may put financial burden on the respondent. He would also get an opportunity to cross-examine the witnesses examined by the petitioner.

6. Although the petitioner could not appear before the Court below on 4-5 dates 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 respondent, if one opportunity is granted to the petitioner to conclude his evidence. On the other hand, the respondent 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 04.10.2023, 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 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 respondent. In case, if it is not possible to conclude the evidence of the petitioner on the date so fixed by the Trial Court, then it would be concluded on the very next day. 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 respondent is not satisfied with this order, he can challenge the same by filing application within 30 days.

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

November 09, 2023
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(GURBIR SINGH)
JUDGE

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