

CR-8328-2018(O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CR-8328-2018 (O&M)****Date of decision: March 16, 2023**

Dinesh

....Petitioner

versus

Mahender

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Virendra Rana, Advocate for petitioner.

Mr. Ankur Lal, Advocate for respondent.

ARUN MONGA, J. (ORAL)

Present revision petition is to set aside impugned order dated 19.11.2018 (Annexure P-4) passed by learned Civil Judge (Junior Division), Bhiwani, whereby evidence of petitioner-plaintiff was closed by court order.

2. Learned counsel for petitioner contends that petitioner-plaintiff filed a suit for recovery of Rs.5,79,600/- along with interest against respondent-defendant. On 15.04.2017, learned trial Court framed issues. Thereafter, case proceeded and was being adjourned from time to time for evidence of petitioner. On 19.11.2018, learned counsel for petitioner-plaintiff prayed for an adjournment since no PWs were available on that day. Instead, learned Court below closed the evidence of petitioner-plaintiff.

3. Per contra, learned counsel for respondent contends that before passing the order of closing evidence of petitioner, learned trial Court granted several opportunities, then last opportunity and still thereafter granted another adjournment while imposing costs. He further urges that vide impugned order dated 19.11.2018, learned trial Court rightly closed the evidence of petitioner.

4. I have heard learned counsel for parties and gone through the record.

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5. Rules of procedure are handmaid of justice and cannot be allowed to thwart real and substantial justice between the parties. The valuable right of litigants to establish their cases by adducing evidence ought not to be denied by the Court except in a case of their deliberate omission/failure to produce evidence more so when the other party can be compensated by costs. Prejudice would indeed be caused to petitioner-plaintiff unless afforded an opportunity to lead evidence. Trial in the suit may lead to unjust consequences if petitioner-plaintiff is not given an opportunity to produce his evidence.

6. For the foregoing reasons, I deem it appropriate to grant one more opportunity to petitioner-plaintiff to lead evidence, subject to payment of costs of Rs.5,000/- which shall be paid to respondent herein. To that extent, impugned order is modified and the revision petition is allowed.

7. Disposed of, accordingly.

8. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

March 16, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No