

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

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CR No.7193 of 2023 (O&M)

Date of decision: 30.11.2023

Lakhbir Singh

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Deepak Arora, Advocate for the petitioner.

NAMIT KUMAR J. (Oral)

The instant revision petition has been filed under Article 227 of the Constitution of India, praying for setting-aside the order dated 07.11.2023 (Annexure P-3) passed by the learned Civil Judge (Sr. Division), Gurdaspur in Civil Suit No.394 dated 28.03.2018, titled as “Lakhbir Singh vs State of Punjab & Ors”, whereby the evidence of the plaintiff/petitioner has been closed by Court order.

Learned counsel for the petitioner has annexed the zimini orders with the petition to submit that on 14.08.2023, PWs Lakhbir Singh, Nirmal Singh and Sukhdev Singh were present and tendered affidavits in evidence and the case was adjourned to 06.09.2023, on the request made by learned counsel for the defendants/respondents. Thereafter, on 06.09.2023, PW-4 H.S. Bajwa, Draftsman was present and examined-in-chief and even his cross-examination was deferred on the request of learned counsel for the defendants/respondents and the case was adjourned to 15.09.2023 and similarly, on 15.09.2023, PWs Lakhbir Singh, Nirmal Singh and Sukhdev Singh were present before the learned trial Court, however, they could not be examined as learned

counsel for the respondents/defendants made request for an adjournment and the case was adjourned to 20.09.2023. On 20.09.2023 and 26.09.2023, no evidence of plaintiff was present, however, the learned trial Court, without taking into consideration the fact that the adjournments are being sought on behalf of the respondents/defendants, has granted last opportunity to the plaintiff/petitioner to lead evidence. Thereafter, on 04.10.2023, PW-2 Nirmal Singh was present and partly cross-examined and again on the request of learned counsel for the respondents/defendants, the case was adjourned to 10.10.2023, for recording his further cross-examination. Similarly, on 10.10.2023, 03 PWs Lakhbir Singh, Nirmal Singh and Sukhdev Singh were present before the learned trial Court and they were partly cross-examined and again on the request of learned counsel for the respondents/defendants, the case was adjourned to 16.10.2023 for recording their further cross-examination. Thereafter, on 16.10.2023, 03 PWs Lakhbir Singh, Nirmal Singh and Sukhdev Singh were examined and the case was adjourned to 01.11.2023 for plaintiff's evidence, subject to last opportunity. On 01.11.2023, one PW-4 S.S. Bajwa appeared and examined and again, the case was adjourned to 07.11.2023 for evidence of the plaintiff, subject to last opportunity and thereafter, on 07.11.2023, the evidence of the plaintiff was closed by Court order by observing that the plaintiff has availed numerous opportunities including several last opportunities.

Learned counsel for the petitioner/plaintiff further submits that the learned trial Court is giving short dates in the matter, in question and even failed to take into consideration the fact that the learned counsel representing the defendants/respondents also took several

adjournments for cross-examination of plaintiff witnesses. Lastly, he submits that great prejudice would be caused to the petitioner/plaintiff if, the impugned order is not set-aside and an opportunity to lead his evidence is not given.

I have heard learned counsel for the petitioner and perused the relevant documents.

Keeping in view the above factual position, the present revision petition is allowed and the order dated 07.11.2023 passed by learned Civil Judge (Senior Division), Gurdaspur, is set-aside and the petitioner/plaintiff is granted two more effective opportunities to conclude his evidence i.e. on the next date of hearing 02.01.2024 and thereafter, on one subsequent date which shall be granted by the Court concerned, subject to costs of Rs.15,000/- to be deposited with the Punjab and Haryana High Court Bar Clerks Association, within a period of 30 days from today.

Considering the nature of order being passed, facts and circumstances of the case, issuance of notice to respondents seems unnecessary and is, therefore, dispensed with. Still if dissatisfied, the respondents may approach this Court for recalling of this order.

However, it is made clear that no further opportunity will be granted to the petitioner/plaintiff to conclude his evidence.

(NAMIT KUMAR)
JUDGE

30.11.2023

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