

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.125

Case No. : C. R. No. 7347 of 2023

Date of Decision : December 06, 2023

Lachhman Singh		Petitioner
vs.		
Paramjit Singh and others		Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. S. P. Soi, Advocate
for the petitioner.

* * *

GURBIR SINGH, J. :

1. This is revision petition under Article 227 of the Constitution of India, challenging order dated 24.11.2023 (Annexure P-2), passed by learned Civil Judge(Junior Division), Nakodar, thereby closing evidence of the plaintiff-petitioner by court order.

2. Learned counsel for the petitioner states that the plaintiff-petitioner filed a suit for declaration, in which issues were framed on 12.04.2023 and case was adjourned to 18.05.2023 for evidence of the plaintiff-petitioner. Thereafter, on 24.11.2023, evidence of the plaintiff was going on, one witness was examined before lunch break and one was to be examined after lunch. However, the evidence of the plaintiff-petitioner was closed by order. Learned counsel has further prayed that only one more opportunity may be granted to the petitioner to lead his evidence at own responsibility.

3. I have heard learned counsel for the petitioner and perused the case file.

4. The record reveals that the plaintiff-petitioner availed sufficient number of opportunities to lead the evidence but failed to conclude it. So, the learned Court below was having no other option but to close the evidence of the plaintiff-petitioner by Court order. The said order was passed after following due procedure in accordance with law. The impugned order dated 24.11.2023 reads as under :-

“PW2 Satwinder Singh, Sr. Assistant, HRC Branch, DC Office, Jalandhar present and examined. No other PW is present. Ld. Counsel for plaintiff requested for adjournment. Ld. Counsel for plaintiff has been apprised that as per the record of file, this is the last opportunity for plaintiff evidence, then Ld. Counsel for plaintiff stated that the Court cannot slaughter the cases and this attitude of the Court is not accurate. He further stated that the evidence of plaintiff is still pending. But Ld. Counsel did not place on file affidavit of any other witness nor apprised the name of any witness of plaintiff which is to be examined.

Perusal of file reveals that since the framing of issues, the plaintiff has availed more than 15 effective opportunities to conclude its evidence. Vide order dated 09.11.2023 the case was adjourned by specifically mentioned that in case the plaintiff fails to conclude evidence on next date i.e. 22.11.2023 his evidence will be deemed to be closed by order. Then on 22.11.2023 official

Satwinder Singh, Sr. Assistant, HRC Branch, DC Office appeared along-with record but counsel for plaintiff requested for one adjournment that he is not feeling well and the Court again adjourned the case for 24.11.2023 i.e. today by mentioning that the evidence of plaintiff will be deemed to be closed by order if the plaintiffs fails to conclude it. As per the report of Ahlmad, list of witnesses furnished by plaintiff has already been exhausted and no fresh list has been furnished by him. Therefore, in view of these facts and record available on file, no further adjournment is justified for plaintiff evidence when there is no fresh list of witnesses on record and evidence of plaintiff is closed by order. Now to come up on 06.12.2023 for evidence of defendants No.1 to 3.

*Date of Order: 24.11.2023 (Rajbinder Kaur)
Navdeep Civil Judge(Junior Division)
UID No.. PB00390*

File taken up on again on 03:40 pm as counsel for plaintiff moved an application under Section 151 CPC for entertaining the affidavit of Surinder Singh by examination-in-chief. Ld. Counsel for plaintiff stated that the Court did not give him opportunity to tell that the witnesses are yet to be examined and closed the evidence of plaintiff by order. He further stated that when he appeared in the morning in Court, the Court asked him to argue in the another case and then to examine official Satwinder Singh PW in the present case and the Court did not give him any

opportunity to request that one witness is still pending for the evidence of plaintiff. The evidence of plaintiff has already been closed by order.

It is pertinent to mention that it has already been mentioned in earlier order that the Ld. Counsel for the plaintiff requested for adjournment on the ground that the evidence of plaintiff is still pending but he did not produce any witness. The evidence of plaintiff has already been closed by order as he has availed numerous opportunities. However, in interest of justice the case is also fixed for filing reply by the defendant to the present application of plaintiff on next date i.e. 06.12.2023. However the case remains fixed for evidence of defendants. List of witnesses of defendants be filed within three days, and thereafter notice to witnesses be issued as per list of witnesses, failing which the defendants will produce their evidence at own responsibility.

*Date of Order: 24.11.2023 (Rajbinder Kaur)
Navdeep Civil Judge(Junior Division)
UID No.. PB00390"*

5. A bare perusal of the aforesaid order shows that the Court below was very much within its right to close the evidence of the petitioner as a Court is not supposed to wait for a litigant or grant frequent adjournments. However, taking a lenient view and keeping in view that technicalities should not be impediment in the course of justice, this Court is of the considered view that ends of justice would be met if the petitioner is

granted another opportunity to conclude his evidence, on payment of cost.

6. I intend to dispose of the instant revision petition without issuing notice to the respondents, so as to avoid further delay in disposal of the case by the Trial court and also to save the respondents of the expenses they may have to incur in engaging counsel for the instant revision petition, if notice of the same is issued to them.

7. In view of the aforesaid discussion, the instant revision petition is allowed and impugned order dated 24.11.2023 (Annexure P-2) is set aside. The Trial Court is directed to grant only one more opportunity to the petitioner to lead his evidence at own responsibility, subject to payment of Rs.25,000/- as cost, which is condition precedent. The petitioner is now not entitled for assistance of the Court to procure presence of any witness. It is further directed that in case the witness(es) is/are produced and it is not possible for the Court to cross-examine the witness(es) on that day, then cross-examination be got conducted on the very next working day.

8. If respondents are not satisfied with this order, then they can move an application within a period of 30 days, for setting aside the same.

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

December 06, 2023
monika

(GURBIR SINGH)
JUDGE

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