

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

124

CR-448-2024 (O&M)

Date of decision:25.01.2024

Sarabjeet Singh

... Petitioner

Vs.

Karamjit Singh & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. Arjun Shukla, Advocate for the petitioner.

...

SUKHVINDER KAUR, J.

1. The instant revision petition has been filed by petitioner/defendant No.1 against the order dated 03.01.2024 (Annexure P-1) passed by the Civil Judge (Jr. Division), Ludhiana, whereby the application filed by the petitioner under Order 18 Rule 17 CPC for recalling the petitioner for cross-examination was dismissed.

2. A suit for declaration was filed by plaintiff/respondent No.1 - Karamjit Singh to the effect that plaintiff along with the defendants were owners in possession of the properties as mentioned in the head note of the plaint and mutation No.7170 dated 20.05.2013, mutation No.3594 dated 18.07.2013 and mutation No.3597 dated 11.07.2013 got sanctioned by defendant No.1 are illegal, null and void and permanent injunction was also sought against defendant No.1.

3. During the pendency of the suit, several effective opportunities were provided to the petitioner/defendant No.1 to conclude his evidence but he failed to conclude the same. Therefore, the trial Court vide order

21.11.2023 closed his evidence by order. Thereafter, defendant No.1/petitioner moved an application under Order 18 Rule 17 for recalling for his cross-examination, but the same was dismissed vide the impugned order dated 03.01.2024 by the trial Court. Hence, the present revision petition was filed by the petitioner/defendant No.1 before this Court.

4. It has been contended by learned counsel for the petitioner that the trial Court while dismissing the application under Order 18 Rule 17 CPC vide order dated 03.01.2024 had not considered the true and actual facts as mentioned in the application. He has further contended that after the petitioner left for USA, he was having ill health but despite his illness, he returned to India on 04.10.2023 to attend the proceedings in the present case. But he had to undergo emergency treatment for his illness and he could not come present before the Court for his cross-examination. Besides his own illness, petitioner also remained occupied with treatment of his minor grandson who was suffering from acute bronchopneumonia. But all these facts have been ignored by the trial Court while passing the impugned order. He has argued that the petitioner was very much inclined to complete his cross-examination and he had pleaded in the application moved under Order 18 Rule 17 CPC before the trial Court to complete his cross-examination before 30.04.2023 as he was to leave for USA, but the respondent deliberately got deferred the cross-examination on many occasions and his cross-examination was not completed. Therefore he has prayed that one effective opportunity be provided to the petitioner for completion of his cross-examination.

5. I have heard learned counsel for the petitioner at length and

have perused the pleadings on record.

6. Perusal of the impugned order reveals that it has been mentioned therein that defendant No.1 was given 13 effective opportunities for concluding his evidence but despite granting various adjournments and imposing of cost, he failed to conclude his evidence and then it was closed by the Court on 21.11.2023.

7. Though there is no infirmity in the impugned order, yet it will be appropriate, if in the interest of justice, one effective opportunity is given to the petitioner to conclude his evidence. As petitioner is appearing as his own witness, so his testimony is material to prove his case. The other party can be well compensated with costs. Therefore, the impugned order is set aside. The trial Court will grant one effective opportunity to the petitioner to conclude his evidence subject to payment of costs of Rs.10,000/- to respondent No.1.

7. Revision petition is allowed in the aforesaid terms.

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

(SUKHVINDER KAUR)
JUDGE

25.01.2024
harjeet

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |