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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

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Date of Decision: 28.02.2024.

M/s Harnam Singh and Company

...Petitioner.

Versus

M/s Baba Fateh Singh Cotton and General Mills and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Nitesh Singhi, Advocate for the petitioner.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner has challenged order dated 19.01.2024 passed by learned Trial Court, vide which the evidence of the plaintiff/ petitioner was closed by order of Court.

2. The brief facts relevant for the adjudication of the present revision petition are that the petitioner has filed the suit for recovery of Rs.21,42,130.49/- out of which Rs.15,97,886.49/- as principal amount and Rs.5,44,244/- as interest at the rate of 12% per annum on the basis of Bahi entries contained in the ledger, cash book and Gadda Bahi of the plaintiff/ petitioner firm and to further grant interest at the rate of 12% per month from the date of filing the suit till its actual realization against the defendants/ respondents.

3. Notice of the said suit was given to the defendants/

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respondents, who appeared and contested the proceedings. From the pleadings of the parties, issues were framed. Thereafter, the case was fixed for the evidence of the plaintiff/ petitioner on 10.10.2023, 23.10.2023 and 02.01.2024, but no evidence was produced. Then the case was adjourned for 19.01.2024 for evidence of the plaintiff/ petitioner, subject to cost of Rs.1,000/-. On 19.01.2024, again no evidence of the plaintiff/ petitioner was produced, so the evidence of the plaintiff was closed by order of Court.

4. Aggrieved by the said order, the present revision petition has been filed by the petitioner before this Court.

5. Learned counsel for the petitioner has contended that the evidence of the plaintiff could not be produced on the date fixed before the trial Court as the plaintiff/ petitioner was not aware about the procedure or proceedings of the Court and the counsel for the plaintiff did not inform him regarding the same. Now the plaintiff has engaged a new counsel, who is appearing before the trial Court. He has contended that a fair and reasonable opportunity be provided to the plaintiff/ petitioner for adducing his evidence and the impugned order be set aside which is a quite harsh order.

6. I have heard learned counsel for the petitioner and have gone through the relevant record.

7. Though there is no infirmity in the impugned order, yet it will be appropriate and in the interest of justice, if one effective opportunity is afforded to the petitioner for adducing his evidence, otherwise, if this evidence is not produced then it will adversely effect the case of the plaintiff. No purpose is likely to be served by serving notice of this petition to the respondents as it will result in unnecessary delay. Considering all

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these aspects, the impugned order is set aside, subject to cost of Rs.10,000/-.

The trial Court is directed to grant one effective opportunity to the petitioner to conclude entire evidence at own responsibility, subject to payment of costs of Rs.10,000/- to the respondents/ defendants.

8. Revision petition is allowed in the aforesaid terms.

9. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

28.02.2024.

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Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No