

CR-1287-2024 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.163+359

CR-1287-2024 (O&M)

Date of Decision: 23.05.2024

AVTAR SINGH

....Petitioner

Versus

GURJANT SINGH

....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Dhiraj Jindal, Advocate,
for the petitioner.

None for the respondent.

ARCHANA PURI, J. (Oral)

CM-5494-CII-2024

The present application had been filed for preponement of the date of hearing of the main case, which is fixed for 23.05.2024 i.e. today itself.

Since the main case is fixed for hearing today itself, the instant application has become infructuous. Hence, the instant application is hereby dismissed, as such.

CM-5495-CII-2024

Keeping in view the averments made in the application, same is allowed.

CM-5496-CII-2024

The present application has been filed for placing on record the zimini orders, as Annexures P-2 to P-10.

In view of the averments made in the application, same is

CR-1287-2024 (O&M)

allowed and the requisite zimini orders are taken on record.

Main case

Challenge in the present revision petition is to the order dated 21.02.2024 (Annexure P-1) passed by learned Trial Court, whereby the evidence of the present petitioner (who is defendant before learned Trial Court), was closed by order.

Learned counsel for the petitioner heard.

During the pendency of the suit for specific performance, the evidence of the petitioner/defendant, was closed by order, vide the impugned order.

From perusal of the zimini orders, which have been placed on record, it is evident that on 15.09.2023, the case was adjourned to 29.09.2023, for evidence of the defendant and on 29.09.2023, no DW was present and the case was adjourned for 13.10.2023. For the same purpose, the case was adjourned further from 13.10.2023 to 27.10.2023 and further to 10.11.2023. On 10.11.2023, the Bar was observing no work day, due to Diwali festival preparation and the case was adjourned further for 29.11.2023. On 29.11.2023, again no DW was present and the case was adjourned further for 06.12.2023, for defendant evidence. No reason, as such, was assigned in the aforesaid zimini orders, as to why the witnesses could not be produced. On 06.12.2023, again the Bar was observing no work day and as such, the case was adjourned to 22.01.2024. However, it was only in the order dated 29.01.2024, that an application for adjournment was filed on medical ground, which was allowed by learned Trial Court and the case was adjourned for 14.02.2024. Thereafter, the impugned order was passed on 21.02.2024.

CR-1287-2024 (O&M)

Now, it is submitted by learned counsel for the petitioner that it is only the petitioner (the defendant before learned Trial Court), who is to be examined and he gives an undertaking to conclude the entire evidence on one date only.

In the given circumstances and also in the interest of justice, considering the matter should be adjudicated on merits, without prejudice to the rights of the parties, the instant revision petition is hereby accepted and the impugned order dated 21.02.2024 is set aside, subject to deposit of Rs.20,000/- as costs, in '*Poor Patient Welfare Funds, PGIMER, Chandigarh*', within a period of ten days from today onwards.

The next date fixed before learned Trial Court is stated to be 28.05.2024. On that date, the petitioner shall appear before learned Trial Court, for the purposes of examination and learned Court shall make an endeavour to examine the said witness on that very date, or at the maximum, on the next short date, to be fixed by the Court. However, it is made clear that no further opportunity shall be given to the petitioner to examine any other witness.

Accordingly, the instant revision petition is hereby disposed of.

23.05.2024
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No