



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

131

CR-1530-2024(O&M)

Decided on: 16.05.2024

Hardeep Singh**...Petitioner****Versus****Bhuvneshwar Prasad and others****...Respondents****CORAM: HON'BLE MRS JUSTICE RITU TAGORE**

Present: Mr. Jagtar Kureel, Advocate
for the petitioner.

Mr. Shoryaveer Vashist, Advocate for
Mr. Tarunveer Vashist, Advocate
for respondent No.6 and 7.

RITU TAGORE, J.(oral)

1. Mr. Shoryaveer Vashist, Advocate for Mr. Tarunveer Vashist, Advocate files memo of appearance on behalf of respondents No.6 and 7, same is taken on record. As per the service report, respondents No.1, 2 and 5 were personally served. Respondent No.3 (i) served through her father-in-law (respondent No.1), respondent No.3(ii) through grand-father (respondent No.1) and respondent No.4 through father. On call, there is no representation on their behalf. Hence, they are proceeded against *ex parte*.

2. This revision is directed against the order dated 29.02.2024 (Annexure P-6) passed in Civil Suit No.1620 of 2016 titled as 'Hardeep



Singh Vs. Bhuvneshwar Prasad and others' vide which evidence of the petitioner has been closed by Court order.

3. Learned counsel for the petitioner submits that the learned trial Court has closed petitioner's evidence in an arbitrary manner, without considering the fact that the petitioner is a 70 year-old man, suffering from heart and renal failure. He is on dialysis and has been advised bed rest and was unable to attend the Court proceedings.

4. It is stated by learned counsel for the petitioner that several dates mentioned in the impugned order showing non-availability of petitioner's evidence are factually incorrect. On some dates, the Presiding Officer was on leave and thereafter had relinquished the charge. On some of the scheduled dates, petitioner's evidence could not be concluded within Court time, leading to adjournments. On certain hearing-dates, the District Bar had suspended the work and some dates were consumed for arguments on application under Order 6 Rule 17 CPC moved by defendants No.6 and 7.

5. The learned counsel further submitted that observation of the learned trial Court that petitioner had not filed the list of witnesses is also factually incorrect. In fact the petitioner had already filed two applications to summon his witnesses. To support his arguments, learned counsel referred to the medical reports of the plaintiff, the copy of list of witnesses and the *zimini* orders (Annexure P-4 and P-5 colly).

6. The learned counsel, thus, contended that in the interest of justice, the petitioner should be afforded an opportunity to present and conclude his evidence. Learned counsel further undertakes to bring the evidence at petitioner's own responsibility.



7. Contrary to this, learned counsel for the respondents supported and defended the order, stating that the learned trial Court has rightly closed the evidence, considering umpteen opportunities availed by the plaintiff but failed to conclude the same. However, learned counsel for the respondents failed to refute the fact that the observation of the learned trial Court, stating that petitioner had not filed any list of witnesses is factually incorrect. Furthermore, learned counsel for the respondents also failed to deny that on some dates the District Bar had suspended the work; on other dates, the Presiding Officer was not holding the Court; and on certain dates, a new incumbent had not assumed the charge. In addition, certain dates were consumed on the arguments on application under Order 6 Rule 17CPC filed by respondents No.6 and 7, and on some dates, the examination of the witnesses could not be completed within Court hours.

8. I have learned counsel for the parties and have gone through the paper-book with their valuable assistance.

9. It is trite that all rules of procedure are the handmaid of justice. In an adversarial system, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation. From the facts of the case, it is made out that due to the reasons narrated above; the plaintiff could not complete his evidence in a time bound matter, resulting in the closure of his evidence. However, it cannot be suggested that delay has been caused by the petitioner for any malevolent reasons. It is well established that the Court should adopt a liberal approach and rights of the parties should be adjudicated on the merits of the controversy, rather, thwarting the same on rigid technicalities. Furthermore, the counsel on behalf of the petitioner undertakes to conclude his evidence if an opportunity is given.



10. In these circumstances, to do complete justice between the parties, I believe that two effective opportunities should be granted to the petitioner to conclude his evidence enabling him to put forth his stand before the learned trial Court to substantiate his case filed against the respondents. Accordingly, impugned order dated 29.02.2024 (Annexure P-6) is set aside permitting the petitioner to conclude his evidence in two effective opportunities at his own responsibility and further that he shall not take any undue adjournment.
11. Needless to mention, parties to the petition shall assist the Court in expeditious disposal of the case
12. Petitioner is directed to appear before the learned trial Court on the due date of hearing as fixed by the learned Court and present his evidence.
13. Accordingly, this revision petition stands allowed in above terms.
14. Pending applications, if any, also stands disposed of accordingly.

(RITU TAGORE)
JUDGE

16.05.2024
Rimpal

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