

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CM-6469-CII-2024 in/&
CR-1750-2024
Decided on: 23.04.2024

Babru Bahan Singh

...Petitioner

Versus

Charanjit Singh and another

...Respondents

CORAM: HON'BLE MRS JUSTICE RITU TAGORE

Present: Mr. Ravi Malhotra, Advocate for the petitioner.

RITU TAGORE, J. (ORAL)

CM-6469-CII-2024

C.M. is allowed subject to just exceptions. Copies of interim orders are taken on record as Annexure P-6.

CR-1750-2024

1. This revision is directed against the order dated 04.08.2023 (Annexure P-4) whereby evidence of the petitioner (plaintiff before the learned trial Court) has been closed by Court order in a civil suit bearing CS No. 1124 of 2019 titled as Babru Bahan Singh vs. Charanjit Singh and another.
2. Learned counsel submits that the petitioner instituted a civil suit to recover damages for defamation and loss of reputation etc. caused by the respondents on the several grounds, taken in the plaint (Annexure P-1). Upon receiving notice of the suit, the respondents (defendants before the learned trial Court) appeared and filed their written statement (Annexure P-2). Learned counsel further submitted that the learned trial Court framed the issues, and thereafter, the case was posted for evidence of the petitioner. It is stated by the learned counsel that petitioner had been presenting his evidence regularly. On 11.07.2023, no evidence was present on behalf of the petitioner as he inadvertently failed to collect *dasti* summons.

Consequently, the case was posted for his evidence on 04.08.2023. It is stated by the learned counsel that on 04.08.2023, the petitioner examined ASI Hardev Singh as PW2. However, the learned trial Court without offering further opportunity to the petitioner, closed his evidence vide impugned order dated 04.08.2023 (Annexure P-4).

3. Learned counsel submits that only petitioner is left to be examined in the suit, and in case an opportunity is not afforded to him, the petitioner would suffer irreparable loss and injury, as his evidence is most vital for the proper and complete adjudication of the case filed by petitioner against the respondents. Learned counsel submits that only one effective opportunity be provided to the petitioner and he shall conclude his evidence

4. I have heard learned counsel for the petitioner and have gone through the paper book with his valuable assistance.

5. Considering the limited prayer made in this revision, notice to respondents is dispensed with, at this stage.

6. After reviewing several *zimini* orders including the impugned order dated 04.08.2023 (Annexure P-4), it is evident that petitioner examined two PWs in his evidence. Some of the *zimini* orders indicate that the petitioner failed to present the evidence on certain dates, which eventually led to the closure of evidence vide impugned order dated 04.08.2023. According to the learned counsel, the petitioner is a plaintiff before the learned trial Court, therefore, his evidence is material for the decision of the case instituted by him against the respondents. In the absence of his testimonial account, the petitioner would suffer irreparable loss. Learned counsel undertakes to conclude the evidence, if one opportunity is provided to him.

7. Although, I find that there has been some inaction on the part of petitioner in not prosecuting the litigation with due diligence, but still it cannot

be suggested that delay has been caused by the petitioner for any *mala fide* 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 the evidence in one opportunity. Furthermore, the delay can always be atoned by imposing costs.

8. In circumstances, to do complete justice between the parties, I believe that one effective opportunity should be granted to the petitioner to conclude his evidence. Accordingly, impugned order dated 04.08.2023 (Annexure P-4) is set aside, subject to the petitioner (revisionist) paying Rs.15,000/- as costs to respondents.

9. Petitioner is directed to appear before learned trial Court on the due date of hearing as fixed by the learned Court and learned trial Court shall provide the petitioner one effective opportunity to conclude the evidence, taking into account the convenience of the opposing party and the Court's own workload.

10. It is made clear that in case of default, this order shall stand automatically vacated.

11. Respondents, if not satisfied with this order, may move an application for recalling the same within 30 days.

12. Accordingly, revision petition is allowed in above terms.

13. Pending applications, if any, also stands disposed of accordingly.

(RITU TAGORE)
JUDGE

23.04.2024

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