



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CR No.2430 of 2024

Date of Decision : 21.05.2024

Neeraj Kumar and Others

....Petitioners

VERSUS

Sushma Sharma and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. H.K. Aurora, Advocate for the petitioners.

Mr. Ravinder Rana, Advocate for respondent Nos.1 to 3.

Mr. Prince Pasricha, Advocate for respondent Nos.4(a) & 4(b).

ALKA SARIN, J. (Oral)

1. The present revision petition has been filed challenging the orders dated 10.03.2017, 21.09.2022 and 30.11.2023.
2. The brief facts relevant to the present *lis* are that the plaintiff-petitioners filed a suit for declaration and permanent injunction which was dismissed under Order XVII Rule 3 of the Code of Civil Procedure, 1908. In appeal the matter was remanded vide order dated 14.07.2014 with liberty to the plaintiff-petitioners and defendant-respondents to lead their evidence. Subsequently, the case was again dismissed on 10.03.2017 on account of non-appearance of the counsel. An application was filed for restoration of the case. The said application was dismissed vide order dated 21.09.2022. Aggrieved by the same an appeal was preferred, which was also dismissed vide order dated 30.11.2023. Hence, the present revision petition.



3. Learned counsel for the plaintiff-petitioners would contend that the witnesses of the plaintiff-petitioners have tendered their affidavits in examination-in-chief and they are yet to be cross-examined. It is to be noted here that it has inadvertently been noticed in the order dated 02.05.2024 that the plaintiff-petitioners are to cross-examine the witnesses. Learned counsel for the petitioners would further contend that given two effective opportunities the plaintiff-petitioners would present all the witnesses for their cross-examination.

4. *Per contra* learned counsel appearing on behalf of the respondent Nos.1 to 3 and for respondent Nos.4(a) and 4(b) have vehemently contended that the matter has been dismissed on two occasions. On the earlier occasion when the case was dismissed in default the same was restored in appeal and the matter was remanded. However, despite the remand the matter was again dismissed for non-prosecution. It is further the contention that the original suit was instituted in the year 2008 and the respondents are being dragged in the litigation and incurring huge expenses.

5 Heard.

6. In the present case, no doubt the plaintiff-petitioners have been remiss inasmuch as earlier also the suit was dismissed under Order XVII Rule 3 CPC which later in appeal was restored and the matter was remanded with liberty to the plaintiff-petitioners and defendant-respondents to lead their evidence. Subsequently, the matter was again dismissed on account of non-appearance of the counsel. The affidavits in examination-in-chief of all the witnesses of the plaintiff-petitioners have already been tendered in evidence and their cross-examination remains. In order to do complete justice between the parties two effective opportunities are granted to the



plaintiff-petitioners to present the witnesses for their cross-examination. The said opportunity is subject to payment of Rs.50,000/- as costs to be paid to the defendant-respondents which shall be a condition precedent. It is made clear that no further opportunity shall be granted to the plaintiff-petitioners herein. The Court concerned is requested not to grant any unnecessary adjournments in the case.

7. Present petition is disposed off in the above terms. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

21.05.2024
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO