

CR-2492-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.131

CR-2492-2024

Date of Decision: 25.04.2024

RAI SINGH

....Petitioner

Versus

SAHIL AND OTHERS

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr. Vivek Singla, Advocate,
for the petitioner.

ARCHANA PURI, J. (Oral)

Challenge in the present revision petition is to the order 28.03.2024 (Annexure P-5) passed by learned Trial Court, whereby the evidence of the petitioner (who is defendant before learned Trial Court), has been closed by order.

Learned counsel for the petitioner heard.

The facts, as culled out from the paperbook are that initially, the respondents had filed a suit for possession and permanent injunction against the petitioner. After the culmination of evidence of the plaintiffs on 27.02.2023, the case was fixed for recording of the evidence of the present petitioner/defendant, for 21.04.2023. Thereafter, for 3-4 dates, no witness was present at the behest of the petitioner and it was on 07.08.2023, the statement of two DWs i.e. DW-2, Bagga Singh and DW-3, Ram Niwas, was recorded completely through Local Commissioner, appointed by learned Trial Court. On the said date, DW-1, Raj Singh, had tendered into evidence his affidavit, but however, his cross-examination was deferred on the request

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of learned counsel for the respondents/plaintiffs and the case was adjourned for 12.09.2023. On 12.09.2023, the summons sent for service of the witnesses, Vikas, Chowkidar and Kallu, were received back duly served, but however, they had not made appearance and as such, they were ordered to be summoned through bailable warrants for 13.11.2023.

Since the Presiding Officer was to proceed on leave, the case was taken up on 10.11.2023 and was further adjourned for 06.01.2024. On 06.01.2024, the case was fixed for cross-examination of deferred witness, as well as evidence of the defendant. On the said date, learned counsel for the petitioner/defendant had given up Vikas, Chowkidar and case was adjourned further for 03.02.2024 for cross-examination of deferred witness, as well as evidence of the defendant and last opportunity was given to lead remaining evidence.

On 03.02.2024, DW-1, Rai Singh, was present and his cross-examination was completed and the case adjourned further for 28.03.2024, for evidence of defendant and it was stated to be the last opportunity. Thereafter, on the date fixed i.e. 28.03.2024, the evidence of the defendant was closed by order.

On query by the Court, it is submitted by learned counsel that list of witness was filed before learned Trial Court and diet money was also deposited. Copy of the application for doing the needful is Annexure P-3. Perusal of the same reveals that witnesses, Ram Niwas and Bagga Singh, were the summoned witnesses and they have since been examined. The other witness, Vikas, Chowkidar, mentioned in the list, has since been given up. Now, the sole witness intended to be summoned is Kallu.

Perusal of the zimini orders reveal that even though, the process

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for securing presence of the witnesses throughailable warrants, was initiated, but however, abruptly the same was dropped by learned Trial Court and the case was fixed for recording of evidence, subject to last opportunity and further, the same culminated in the order of closing of evidence by learned Trial Court, vide impugned order dated 28.03.2024.

Keeping in view the seriatim of facts, as detailed aforesaid, this Court deems it appropriate to provide another opportunity to the petitioner to lead evidence.

In the given circumstances, the present revision petition is hereby accepted and learned Trial Court shall provide only two opportunities to lead evidence of the petitioner/defendant. Though, Kallu is a summoned witness, but however, learned counsel for the petitioner submits that he shall be produced at own responsibility. The other witness, if any, required to be examined, shall be examined within a period of two opportunities given aforesaid.

In terms of the aforesaid, the revision petition stands disposed of.

25.04.2024
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No