

**CR No.2770 of 2024 (O&M)****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.****Sr. No.118****Case No. : CR No.2770 of 2024 (O&M)****Date of Decision : May 15, 2024**

Kulwinder Singh

.... Petitioner

vs.

Sukhjinder Singh and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. K. S. Sidhu, Senior Advocate
with Mr. Praagbir S. Dhindsa, Advocate
and Mr. Kartik Bansal, Advocate
for the petitioner.

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GURBIR SINGH, J. :

1. Challenge in this revision petition filed under Article 227 of the Constitution of India is to the order dated 19.03.2024, passed by learned Additional Civil Judge (Senior Division), Amritsar (Annexure P-2) (hereinafter referred to as – the Trial Court), whereby application filed by the defendants for expunging the examination-in-chief of witnesses has been dismissed with costs.

2. Learned counsel for the petitioner has argued that respondents no.1 to 4/plaintiffs filed suit for mandatory injunction against the petitioner and proforma respondents no.5 and 6 for demolishing wall, which is in existence for the last more than 50 years. The said suit is pending before the Court of learned Additional Civil Judge (Senior Division), Amritsar. After



framing of issues, the case is at the stage of evidence of the plaintiffs. The plaintiffs have not completed their evidence yet. On 08.12.2023, the plaintiffs produced only one witness namely Sukhjinder Singh as PW-1. Thereafter, the plaintiffs moved an application to summon two witnesses along with record on 10.01.2024 in spite of the fact that last opportunity was granted to produce remaining evidence. The diet money of the witnesses was also not deposited by the plaintiffs. However, the witnesses came on 29.01.2024 and their examination-in-chief was recorded in the absence of counsel for the petitioner/defendant.

3. The petitioner/defendant filed application for expunging the examination-in-chief of the aforesaid witnesses, recorded on 12.02.2024. the said application was dismissed with costs of Rs.5,000/- along with strictures against the petitioner by mentioning two earlier orders which had no connection whatsoever with the conduct of the petitioner. It is further prayed that the impugned order is liable to be set aside on the ground that the delay in producing the evidence is on the part of respondents and petitioner is not responsible for the same. Although, on some days, counsel for the petitioner was not well and because of health reasons and once due to marriage of counsel's nephew, some adjournments have been sought but the petitioner cannot be held solely responsible for the delay in leading evidence. It has further been contended that examination-in-chief of the witnesses was conducted in the absence of counsel for the petitioner and therefore, the application was moved for expunging their evidence but the

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reasons given for dismissing the application were uncalled for because petitioner never adopted delaying tactics. It was not a case for dismissing the application with heavy costs of Rs.5,000/-. A number of adjournments have been taken by the respondents as well but learned Trial Court did not mention those in the zimni orders and only those orders have been mentioned where the counsel for the petitioner sought adjournment. It was also brought to the notice of the Court that whenever the petitioner sought adjournment, he has paid costs for the same. It is further submitted that the petitioner is aggrieved by para no.8 of the impugned order and prays for expunction of those remarks. Even the case does not warrant imposition of costs of Rs.5,000/-.

4. I have heard learned counsel for the petitioner and perused the case file.

5. The instant suit was filed on 16.05.2018 for mandatory injunction directing the defendants to demolish the wall which has been constructed by the defendants by grabbing passage and also for permanent injunction. Para no.8 of the impugned order passed in the said suit reads as under :-

“8. The suit was filed way back on 16.05.2018 and till date the plaintiff's evidence have not been concluded, not because of the fault of plaintiff but because of above said position. Now, at the time of conclusion of evidence, the present application has been filed by the defendants implying thereby that delaying tactics are being adopted just to delay the adjudication of matter and holding the progress to



ransom. Thus imposition of costs for this conduct is warranted so that the process and time of court should not be taken for ride. In view of above referred discussion, the application stands dismissed being devoid of merits as well as not maintainable with costs of Rs.5000/- to be paid by the defendants in DLSA for adopting such delaying tactic and making mockery of time of Court. It is made clear that payment of cost is condition precedent for the defendants to proceed with the case.”

6. The learned Trial Court has passed the detailed order that written statement was filed on 01.07.2019. After framing of issues, plaintiffs tendered evidence on 05.12.2019 and more than three years were availed by the defendants for cross-examination of the plaintiffs. Some adjournments were also sought and granted without costs as the counsel for the defendants was not well. The learned Trial Court also incorporated different zimni orders which itself speak how the trial is not being allowed to be conducted. If the Court has granted last opportunity to produce the evidence, that does not mean that the Court cannot adjourn the case for producing the witnesses. Perusal of entire Trial Court orders leads to one conclusion that the Trial Court is not being allowed to record the evidence and complete the trial. A detailed order has been passed by the learned Trial Court which is self explanatory.

7. Recently, in case **Yashpal Jain vs. Sushila Devi and others** – **Civil Appeal No.4296 of 2023**, decided on 20.10.2023, the Hon’ble Apex Court has given various directions to Trial Courts for speedy disposal of the



Civil Suits including – “once the date of trial is fixed, the trial should proceed accordingly to the extent possible, on day-to-day-basis.”. The relevant extract of the said judgment regarding concern of Hon’ble Apex Court is as under :-

“37. It is undisputedly accepted that the significance of a swift and efficient judiciary cannot be overstated. It is a cornerstone of democracy, a bulwark against tyranny, and the guarantor of individual liberties. The voices of the oppressed, the rights of the marginalized, the claims of the aggrieved—all are rendered hollow when justice is deferred. Every pending case represents a soul in limbo, waiting for closure and vindication. Every delay is an affront to the very ideals that underpin our legal system. Sadly, the concept of justice delayed is justice denied is not a mere truism, but an irrefutable truth.

Thus, we stand at a crossroads, not of our choosing but of our duty where the urgency of legal reforms in our judiciary cannot be overstated, for the pendulum of justice must swing unimpeded. The edifice of our democracy depends on a judiciary that dispenses justice not as an afterthought but as a paramount mission. We must adapt, we must reform, and we must ensure that justice is not a mirage but a tangible reality for all.

38. Therefore, in this pursuit, we call upon all stakeholders—the legal fraternity, the legislature, the executive, and the citizens themselves—to join hands in a concerted effort to untangle the web of delay and pendency. We must streamline procedures, bolster



infrastructure, invest in technology, and empower our judiciary to meet the demands of our time.

39. The time for procrastination is long past, for justice cannot be a casualty of bureaucratic inefficiency. We must act now, for the hour is late, and the call for justice is unwavering. Let us, as guardians of the law, restore the faith of our citizens in the promise of a just and 48 equitable society. Let us embark on a journey of legal reform with urgency, for the legacy we leave will shape the destiny of a nation. In the halls of justice, let not the echoes of delay and pendency drown out the clarion call of reform. The time is now, and justice waits for no one. Hence, the following requests to Hon’ble the Chief Justices of the High Courts are made and directions are issued to the trial courts to ensure ‘speedy justice’ is delivered.”

8. In view of what has been stated above, I do not find any ground to interfere in the impugned order passed by learned Trial Court. Accordingly, the present revision petition is hereby dismissed being devoid of any merit.

9. Pending applications, if any, shall stand disposed of along with this judgment.

May 15, 2024
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.