

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR No.3637 of 2024 (O&M)
Date of Decision: 03.07.2024

Dalbir Singh
.....Revisionist-Petitioner.

Versus

Gurcharan Singh
.....Respondents.

CORAM: HON’BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Jasinder Singh Sekhon, Advocate
 for the revisionist-petitioner.

MEENAKSHI I. MEHTA, J. (Oral)

By filing the instant revision-petition under Article 227 of the Constitution of India, the petitioner-plaintiff (here-in-after to be referred as ‘the plaintiff’) has laid challenge to the order (Annexure P-3), handed down by learned Additional Civil Judge (Senior Division), Fatehgarh Sahib (for short ‘the trial Court’) on 20.03.2024 in *Civil Suit No.87 of 2021* titled as ‘*Dalbir Singh versus Gurcharan Singh*’, whereby his evidence had been closed and has also assailed the order (Annexure P-7) as passed by the trial Court on 01.05.2024 qua the dismissal of application Annexure P-5, moved by him with the prayer to recall the order Annexure P-3.

2. I have heard learned counsel for the petitioner-plaintiff in the present revision-petition, at the preliminary stage and have also perused the file carefully.



3. Though the plaintiff had failed to conclude his evidence well in time but keeping in view the fact that in para No.2 of the above-referred application (Annexure P-5), he (plaintiff) has categorically averred that he could not appear in the Court on 20.03.2024 due to his being busy in the last rites and '*Bhog Ceremony*' of his cousin brother and also the fact that if he (plaintiff) is deprived of the reasonable opportunity to lead/conclude his evidence to substantiate his claim in the afore-mentioned Suit, he would suffer an irreparable loss that may further lead to/result in the mis-carriage of justice, this Court is of the considered opinion that it will be in the fitness of the things and the ends of justice will also be best served if he is granted another opportunity to lead/conclude his evidence but subject to the payment of cost to the respondent-defendant.

4. Resultantly, without issuing notice to the respondent-defendant so as to avoid any further delay in the adjudication of the above-referred Civil Suit and also to avert the expenses that he (defendant) may have to incur for defending himself in the instant petition, the impugned orders (Annexures P-3 and P-7) are set-aside and the revision-petition in hand is, hereby, disposed of with the direction to the concerned trial Court to afford only one opportunity to the plaintiff to lead/conclude his evidence but however, the payment of cost to the tune of Rs.35,000/- to the respondent-defendant shall be a condition precedent for doing so and in case of default on the part of the plaintiff in concluding his evidence or in the payment of cost on the date, as may be scheduled by the trial Court in terms of this order, he (plaintiff) shall not be entitled to any further opportunity for the afore-said purpose.



5. It is also clarified here that in the eventuality of the respondent -defendant feeling aggrieved by this order, he shall be at liberty to move an appropriate application to contest the present revision-petition.

July 03, 2024
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>