

2024:PHHC:090335



(134) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-3964-2024 (O&M)
DATE OF DECISION:-18.07.2024

Arun Kumar Arora ...Petitioner.

Vs.

Renu Arora and others ...Respondent(s)..

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. I.S. Ratta, Advocate,
for the petitioner.

HARKESH MANUJA, J. (Oral)

1. By way of present petition filed under Article 227 of the Constitution of India, challenge has been laid to an order dated 28.05.2024 (Annexure P-2) passed by the learned Civil Judge (Junior Division), Jalandhar, whereby respondents No.4 to 6 have been permitted to deposit costs of Rs.10,000/- as imposed by this Court vide its order dated 30.11.2023 passed in Civil Revision No. 7172 of 2023, titled as “*Preet @ Kanwalpreet Singh vs. Arun Kumar Arora and others*” and also granted one effective opportunity to produce their witnesses for cross-examination.
2. In the present case, petitioner-plaintiff filed a suit for permanent injunction against the respondents-defendants, wherein, respondents No.1 to 3/defendants No.1 to 3 were proceeded against ex-parte. From the pleadings of the parties, issues were framed by the Trial Court on 01.07.2017. Upon

closure of evidence of petitioner-plaintiff, that of respondents-defendants commenced on 08.02.2024. In the meanwhile, respondent No.6-defendant No.6 moved an application before the Trial Court for recalling of petitioner-plaintiff for his further cross-examination which was declined vide order dated 11.04.2018. An application filed for recalling of the order dated 11.04.2018 also came to be declined vide order dated 08.09.2022.

3. The aforementioned orders dated 11.04.2018 and 08.09.2022 were assailed before this Court by way of Civil Revision No.7172 of 2023 (O&M), which finally came to be decided on 30.11.2023 and the operative portion thereof is extracted hereunder:-

“Resultantly, without going into the merits of the case, the instant petition is allowed and impugned orders dated 11.04.2018 and 08.09.2022 (Annexures P-3 and P-6 respectively) are set aside subject to payment of costs of Rs.10,000/- which is to be paid by the petitioner to the opposite party on the next date of hearing. The trial Court shall give one effective opportunity to the petitioner to cross-examine respondent No.1 and for that purpose a specific date has to be fixed by the trial Court.”

Though as per the aforesaid order dated 30.11.2023, respondent No.6 was to deposit the cost of Rs.10,000/- on the next date of hearing, yet, he failed to comply with the same. In such circumstances, petitioner herein raised an objection regarding recalling of petitioner-plaintiff as witness. The said objection came to be rejected by the trial Court vide order dated 28.05.2024, while granting another opportunity to respondent No.6 for deposit of costs and for compliance of the order dated 30.11.2023 passed by this Court.

4. Impugning the aforesaid order, learned counsel for the

petitioner submits that once a specific direction was issued by this Court to deposit costs of Rs.10,000/- before the trial Court on the next date of hearing, the same being not complied with, the trial Court had no authority/jurisdiction to grant any further extension in favour of respondent No.6 to comply with the order dated 30.11.2023, as the same could only be permitted by this Court.

He also submits that the only intent of contesting respondents No.4 to 6 is to delay the proceedings in the suit for one reason or the other and thus, the impugned order is liable to be recalled.

5. I have heard learned counsel for the petitioner and gone through the paper book. I am unable to find substance in the submissions made on behalf of the petitioner.

6. Though undoubtedly, this Court vide its previous order dated 30.11.2023 passed in CR-7172-2023, directed respondent No.6 to deposit costs of Rs.10,000/- before the trial Court on the next date of hearing, the same not being complied with, the jurisdiction to extend time vested with this Court, however, upon appreciation of peculiar facts and circumstances of the present case, once a judicious discretion has been exercised by the trial Court in favour of contesting respondents granting them further time to deposit the costs, rather than adopting a hyper-technical approach, in the humble opinion of this Court, the matter needs to be dealt with in a pragmatic manner and in such circumstances, no interference is called for in the order dated 28.05.2024 passed by the trial Court.

7. In view of the aforesaid discussion as well as finding no illegality and perversity in the impugned order dated 28.05.2024 passed by the trial Court, as the same would further the cause of justice and would

help respondents No.4 to 6 to put forth their defence in an effective manner,
the present revision petition is dismissed.

8. Pending application, if any, also stands disposed of.

18.07.2024

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(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No