



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-4150 of 2024 (O&M)

Decided on: 21.08.2024

CHHINDER SINGH

...Petitioner

Versus

M/S SIDANA TRADING COMPANY

...Respondent

CORAM: HON'BLE MRS JUSTICE RITU TAGORE

Present: Mr. Kuldip Singh, Advocate
for the petitioner.

RITU TAGORE, J.

CM-13988-CII-2024

This application is for placing on record medical record of the
father of the petitioner as Annexure P-7.

Application is allowed as prayed for.

Annexure P-7 annexed with the application is taken on record.

CR-4150 of 2024 (O&M)

1 This revision is directed against the order dated 15.07.2024
(Annexure P-1), passed in Civil Suit No.206 of 2022 titled as 'M/s Sidana
Trading Company vs Chhinder Singh' vide which evidence of the petitioner-
defendant, has been closed by the Court order.

2. Learned counsel for the petitioner contends that vide order
dated 08.07.2024 (Annexure P-6), the petitioner was granted an opportunity



to lead additional evidence, and the case was scheduled for his evidence for 15.07.2024. Learned counsel submits that on account of health problem of the father of the petitioner, he (father) was suddenly admitted in the hospital, therefore, the petitioner could not appear in the Court on 15.07.2024 and was unable to present his evidence in compliance of order dated 08.07.2024 (Annexure P-6). To support his version, learned counsel referred to the medical record showing his father was subjected to medical tests on 14.07.2024 and thereafter.

4. Learned counsel further submits that 29 opportunities were granted to the respondent/plaintiff from 30.11.2022 to 29.04.2024 and the petitioner was granted only four opportunities from 17.05.2024 to 24.05.2024, which is violation of principles of equity and fair play. To support his version, learned counsel referred to the *zimini* orders Annexure P-3 (colly). Learned counsel submits that the petitioner is ready and willing to produce his evidence. The absence of the petitioner and his witnesses on 15.07.2024 was neither intentional nor deliberate, but due to the reasons stated above. The learned counsel submits that the impugned order has acted harshly upon him as he has been prevented from presenting his evidence, causing serious prejudice to his rights in the suit. The learned counsel urges that one opportunity be afforded to the petitioner and shall conclude his evidence. On the above submissions, a prayer is made to allow the petition.

5. I have heard learned counsel for the petitioner and have gone through the paper book.

6. Considering the prayer made in the present petition, I am of the considered view that issuing notice to respondent at this stage would only further delay the proceedings before the learned trial Court, notice to



respondent is dispensed with at this stage, in the light of the order being passed.

7. It is a matter of record that respondent/plaintiff instituted a suit for recovery against the respondent (Annexure P-1). Perusal of the *zimini* orders (Annexure P-3 'colly') reveals that after availing numerous opportunities, the plaintiff closed his evidence on 29.04.2024 and thereafter, the case was posted for evidence of the petitioner-defendant, who despite taking five effective opportunities, failed to present any evidence and his evidence was closed on 24.05.2024. Thereafter, an application for additional evidence moved by the petitioner was allowed vide order dated 08.07.2024 (Annexure P-6). However, the petitioner failed to lead any evidence on his behalf on the due date of hearing and his evidence was closed vide the impugned order.

8. As per the averments of the petitioner contained in the revision petition because of the admission of his father in the hospital one day prior to the date of the hearing, he could not bring the evidence and appear before the learned trial Court and comply with the order vide which he was granted one opportunity to lead the evidence.

9. From the *zimini* orders (Annexure P-3 'colly'), it is explicit that the petitioner despite availing five opportunities, failed to present any evidence on his behalf. This suggests that the petitioner was not diligent in pursuing his case. However, he was given one opportunity vide order dated 08.07.2024 to present his evidence. Nonetheless, medical-record as presented by the petitioner, reveal that his father had to undergo certain medical tests one day prior to the scheduled date of hearing. In these circumstances, no *mala fide* reasons can be attributed to the petitioner for not



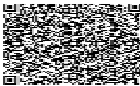
presenting his evidence as directed by the learned trial Court, although from the record he seems to be negligent in pursuing his case.

8. In an adversarial system, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation. It is well established that the Court should adopt a liberal approach, and rights of the parties should be adjudicated on merits of the controversy, rather than thwarting the same on rigid technicalities. Furthermore, the counsel on behalf of the petitioner undertakes to conclude the evidence at one opportunity. Keeping in view the above and further that the delay can always be rectified by imposing costs. In these circumstances, to do complete justice between the parties, I believe that one effective opportunity should be granted to the petitioner to conclude his evidence, thereby enabling him to put forth his stand.

9. Accordingly, impugned order dated 15.07.2024 (Annexure P-1) is set aside, subject to payment of Rs.10,000/- as costs payable by the petitioner to respondent (plaintiff), permitting the petitioner to conclude his evidence as indicated above at his own responsibility. The counsel for the petitioner submits that the case is fixed for arguments before learned trial Court for today i.e. 21.08.2024.

10. Petitioner is directed to appear before the learned trial Court on the due date of hearing as fixed before it and the petitioner shall present his evidence as indicated above and tender costs. The learned trial Court shall grant one effective opportunity to the petitioner to present his evidence by considering the convenience of the counsel for the parties and its own board.

11. It is made clear that in case of default, this order shall automatically be vacated.



- 12. Respondent if not satisfied with this order, may move an application for recalling of this order within 30 days.
- 13. Pending applications, if any, also stands disposed of accordingly.

(RITU TAGORE)
JUDGE

21.08.2024
Rimpal

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No