

2024:PHHC:106831



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

128

CR-4635-2024 (O&M)

Date of decision: 20.08.2024

Pinki Rekha

...Petitioner

Versus

Ram Kishan

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Sandeep Yadav, Advocate for the petitioner.

VIKAS SURI, J.

1. Defendant/petitioner-Pinki Rekha, through this petition under Article 227 of the Constitution of India seeks setting aside order dated 14.03.2022 (Annexure P-2) passed by learned Additional Chief Judicial Magistrate-cum-Civil Judge (Senior Division), Jhajjar, whereby evidence of the petitioner was closed by order of the Court.

2. Brief facts of the case are that the plaintiff-respondent filed a suit for recovery against the defendant-petitioner for Rs.6,93,875/- (Principal amount Rs.4,55,000 + 2,38,875/- as interest thereon) on 06.09.2017. On notice, the petitioner filed written statement to the suit and after considering the pleadings of the parties, issues were framed vide order dated 08.10.2018. The plaintiff-respondent closed his evidence on 16.07.2019 and thereafter, the trial was adjourned for evidence of the defendant (petitioner herein). On first opportunity for leading defendant's evidence, the case was transferred to another Court, which after registering the same, deferred the hearing to 20.01.2020 for



evidence of the defendant to be produced at own responsibility. On the adjourned date, request for adjournment was made, which was granted and the matter was deferred to 27.04.2020. Due to outbreak of COVID-19 pandemic, the normal functioning of the Courts was affected and vide order dated 14.03.2022, the evidence of the defendant-petitioner was closed by Court order.

3. The defendant-petitioner assails the said order by way of the instant revision petition.

4. Learned counsel for the petitioner submits that though the petitioner has availed various opportunities to lead evidence but in fact her evidence has been closed by Court order on the third effective hearing for the purpose itself. Learned counsel would refer to the order passed by Hon'ble Supreme Court of India wherein on March, 2020, the Apex Court took *suo moto* cognizance of the difficulties that might be faced by the litigants in filing petitions etc. due to outbreak of COVID-19 pandemic. It is submitted that vide order dated 10.01.2022, the Apex Court has recognized the period from 15.03.2020 till 28.02.2022, to stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of judicial or quasi judicial proceedings. It is, thus, submitted that prior to the said period, the petitioner had availed two opportunities to lead evidence and on the first hearing after the said period, the impugned order was passed whereby evidence of the defendant-petitioner was closed by Court order. The petitioner prays for one opportunity to lead her entire evidence.



5. Learned counsel for the petitioner further submits that under erroneous legal advice, on 05.05.2022, the petitioner moved an application under Order 41 Rule 27 CPC for leading additional evidence on behalf of the defendant. The said application is pending consideration and the proceedings before the trial Court are pending for 03.09.2024. Learned counsel for the petitioner undertakes to withdraw the said application being misconceived and result of wrong legal advice, on the date already fixed before the trial Court.

6. Heard learned counsel for the petitioner and with his able assistance, perused the record.

7. A perusal of the impugned order dated 14.03.2022 would show that numerous opportunities were availed by the petitioner for leading evidence. The petitioner vide order dated 23.02.2022 was also cautioned that if she failed to conclude her evidence on the next hearing, the evidence shall be deemed to be closed. Accordingly, on 14.03.2022, the evidence of the defendant-petitioner was closed by Court order. It is not disputed that trial in the present case was impacted due to outbreak of COVID-19 pandemic and the same is apparent from the record. The Hon'ble Apex Court *in re: Cognizance for Extension of Limitation, (2022) 3 SCC 117*, held that period between 15.03.2020 till 28.02.2022 has been excluded for the purposes of limitation by general orders. It is not disputed that the said period has been recognized by the Apex Court as the period that had adversely affected normal functioning of the Courts and the difficulties faced by the litigants in that regard. In the



present case, it is also evident on record that the impugned order dated 14.03.2022 has been passed on the first hearing after the aforesaid period.

8. In view of the above and peculiar facts and circumstances of the case, to secure the ends of justice, the instant petition is allowed. The impugned order dated 14.03.2022 is set aside, subject to payment of Rs.10,000/- as costs, to be paid to the plaintiff-respondent and one effective opportunity is granted to petitioner (defendant) to produce her entire evidence on the next date to be fixed by the trial Court for that purpose, after the one already fixed, i.e. 03.09.2024. It is made clear that failing to produce the evidence or to pay costs in terms of this order or abide by the undertaking given before this Court, the petitioner would not be entitled to any further opportunity for the said purpose and the trial Court would proceed with the matter without this order having any bearing on the trial.

9. As the present revision petition is being disposed in the absence of plaintiff-respondent, liberty is granted to him to seek recalling of the present order, if valid grounds for the same are made out.

10. The revision petition is disposed of in the aforesaid terms.

August 20, 2024

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(VIKAS SURI)
JUDGE

Whether speaking/reasoned :	Yes / No
Whether Reportable :	Yes / No