



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

120

CR-5674-2024  
Date of Decision: 27.09.2024

Gyan Chand

....Petitioner

Versus

Suresh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

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**Present:** Mr. Varun Baanth, Advocate  
for the petitioner.

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VIKAS SURI, J. (Oral)

1. This revision petition preferred under Article 227 of the Constitution of India assails order dated 03.08.2024 (Annexure P-2), whereby evidence of the plaintiff/petitioner has been closed by Court order. The learned trial Court closed the evidence of the petitioner/plaintiff as despite having been afforded many effective opportunities to conclude his evidence, he failed to do so.
2. Learned counsel for the petitioner submits that he does not dispute that many opportunities were granted to the petitioner to conclude his evidence but prays that one opportunity be granted to the petitioner to lead his entire evidence.
3. The plaintiff/petitioner has filed a suit for possession by way of partition with consequential relief of permanent injunction. The suit property



is measuring 2 Kanal 14 Marla and it is alleged that the plaintiff and proforma defendants are owners and in possession to the extent of 2/27th share i.e. 4 Marla. Learned counsel for the petitioner submits that till date the defendant has not led any evidence and the proceedings are pending before the trial Court for 04.10.2024.

4. Perusal of the impugned order reveals that the evidence of the petitioner/plaintiff was closed by Court order after having granted nine effective opportunities including last opportunity for concluding evidence. Despite the aforesaid, the plaintiff/petitioner failed to conclude his evidence.

5. After hearing learned counsel for the petitioner, I am of the considered view that there is no infirmity in the impugned order. The petitioner was granted nine effective opportunities to lead his evidence in a suit for possession by way of partition. However, it is settled law that exercise of judicial discretion is to attain the aims of justice. Procedure law is enacted with the objective of doing substantial justice between the parties and an order closing evidence of a party has far reaching consequences.

6. The Apex Court in ***State of Punjab and another vs. Shamlal Murari and another***, (1976) 1 SCC 719, held that we must always remember that procedural law is not to be a tyrant but a servant, not an obstruction but an aid to justice. It has been wisely observed that procedural prescriptions are the handmaids of justice and not the mistress; a lubricant, not a resistant in the administration of justice.

7. Keeping in view the above and in the interest of justice and also in view of the fact that equitable justice can be ensured by compensating the



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other side with costs, the instant petition is disposed of with the direction that the petitioner shall be granted one effective opportunity to adduce his entire evidence, subject to payment of costs of Rs.10,500/- to be paid to the contesting defendants (respondent Nos.1 to 7 herein). The impugned order is modified to that extent.

8. The trial Court shall fix a date for leading entire evidence by the petitioner/plaintiff at his own responsibility. If the petitioner/plaintiff fails to avail the aforesaid order or to pay costs, as aforesaid, the impugned order shall become operative and no further opportunity would be granted to the petitioner for leading evidence. The petitioner/plaintiff is directed to appear before the trial Court on 04.10.2024, i.e. the date already fixed before it, on which date, the next date for producing entire evidence before the trial Court shall be fixed.

9. As the present revision petition is being disposed of in the absence of respondents, liberty is granted to them 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.

**September 27, 2024***Varinder***(VIKAS SURJ)  
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No