



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Civil Revision No. 8156 of 2019 (O&M)
Date of Decision: 19.07.2024

Manjit Singh
..... Petitioner

Versus

Paramjit Kaur
..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Suvir Kumar, Advocate
for the petitioner-plaintiff.

HARKESH MANUJA, J. (ORAL)

The petitioner-plaintiff, by way of present revision petition filed under Article 227 of the Constitution of India, seeks setting aside of an order dated 26.08.2019 (Annexure P-1) passed by learned Civil Judge (Senior Division), Patiala (**hereinafter to be referred as “trial Court”**), whereby his evidence was closed by Court order.

[2] The case of the petitioner-plaintiff is that he filed a suit for recovery of Rs. 11,80,000/- against the respondent-defendant. Upon notice, the respondent-defendant appeared and filed written statement. The issues were framed by the trial Court on 16.02.2017. Thereafter, on 20.07.2017 (Annexure P-4), the petitioner-plaintiff moved an application for summoning of two witnesses, i.e. (i) Joginder Pal, Stamp Vendor, L.No. 441, Mini Secretariat, Patiala alongwith the record bearing Entry No. 308/2 dated 07/2012 regarding purchase of stamp paper; and (ii) the concerned Clerk from the Suvidha Centre, Patiala, alongwith record regarding affidavit No.

4228, Stamp Paper No. 9043. The said application was allowed by the trial Court and consequently summons were issued to them, which were duly served. On account of their non-appearance, learned trial Court vide its order dated 17.07.2019 (Annexure P-5) granted last opportunity to the petitioner to produce the witnesses at his own responsibility. Despite service, Joginder Pal failed to put in appearance before the trial Court, whereas, as per service report of summons (Annexures P-6 & P-7) sent to the concerned Clerk of Suvidha Centre, Patiala, it was reported that Suvidha Centres have now been closed. Ultimately, the trial Court vide order dated 26.08.2019 (Annexure P-1) closed the evidence of the petitioner-plaintiff. Hence, the present revision petition.

[3] Notice was issued in this case on 18.12.2019, however, as per office report submitted for 06.03.2020, notice issued to sole respondent was received back with the report that “*refused to accept summons affixation made*”, which is deemed to be proper service.

[4] Learned counsel for the petitioner-plaintiff submits that in case the petitioner is not granted opportunity to examine the two aforementioned witnesses, he would suffer irreparable loss, as the whole case of the petitioner rests upon their deposition being material witnesses; thus, limited prayer is for grant of one opportunity to lead his entire evidence by summoning the aforesaid two witnesses.

[5] I have heard learned counsel for the petitioner and considered the submissions made on behalf of the petitioner.

[6] In the present case, the suit was filed on 24.12.2015 and the issues were framed on 16.02.2017 by the trial Court. Only one witness is

stated to be examined on 08.04.2019, however, the evidence of petitioner-plaintiff was closed by order on 26.08.2019 (Annexure P-1). Despite service, no one chosen to appear on behalf of the respondent-defendant.

[7] In the humble opinion of this Court, the evidence sought to be produced in the shape of examination of two aforementioned witnesses appears to be relevant for the decision of the case. In such circumstances, the Court should not have debarred the petitioner from examining those witnesses, especially when there does not appear to be any material negligence on the part of the petitioner in bringing them to Court, both being official witnesses.

[8] Hence, without commenting upon the merits of the controversy and keeping in view the limited prayer made on behalf of the petitioner, in the interest of justice, one effective opportunity is granted to the petitioner to lead evidence before the trial Court, while summoning the aforesaid two witnesses (i) Joginder Pal, Stamp Vendor; and (ii) the concerned Clerk, Suvidha Centre, Patiala, through the process of Court, subject to payment of costs of Rs. 20,000/- which shall be deposited by the petitioner with the trial Court, to be disbursed in favour of the respondent-defendant.

[9] Consequently, the revision petition is **allowed** and the order dated 26.08.2019 (Annexure P-1) passed by the trial Court is set aside.

July 19, 2024

(HARKESH MANUJA)
JUDGE

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<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>