

2024:PHHC:172762



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CR-6828-2024 (O&M)
Date of decision: 04.12.2024

Gurbinder Kaur

...Petitioner

Versus

Baljit Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Vikram Preet Arora, Advocate for the petitioner.

VIKAS SURI, J.

1. This is a revision petition under Article 227 of the Constitution of India for setting aside order dated 08.10.2024 (Annexure P-1) passed by learned Additional Civil Judge (Senior Division), Rupnagar, whereby evidence of the plaintiff-petitioner has been closed by Court order.

2. Briefly stated, the plaintiff-petitioner filed a suit for permanent injunction against the defendant-respondent alleging that the plaintiff and defendant are co-sharers in agricultural land forming the suit land.

2.1 Upon notice of the suit, it was contested by filing reply. From the pleadings, issues were framed on 07.02.2024. On 08.08.2024, the petitioner examined-in-chief PW-1 Pal Singh by tendering duly



sworn affidavit along with documents Ex.P1. The cross-examination was deferred at the request of counsel for the defendant and accordingly, the case was adjourned to 08.10.2024, when the impugned order was passed.

3. Learned counsel for the petitioner submits that the plaintiff-petitioner was not afforded sufficient opportunity to lead her entire evidence. It is further submitted that petitioner was present in Court premises on 08.10.2024 but as the matter was transferred to another Court, she did not come to know about it and kept waiting before the Court where the matter was last listed on 08.08.2024. He, thus, prays, that the plaintiff-petitioner be granted only one effective opportunity to conclude her entire evidence.

4. Mr. Bhanu Udai, Advocate, puts in appearance on behalf of the respondent and waives service. He undertakes to file his power of attorney in the Registry during the course of the day. Learned counsel for the respondent has defended the impugned order and thus, prays that the present petition be dismissed.

5. I have heard learned counsel for the parties and with their able assistance perused the record.

6. Perusal of the record would show that after framing of the issues, the case was listed for plaintiff's evidence on 16.03.2024. After availing three opportunities, on 08.08.2024, the petitioner examined-in-chief PW-1 Pal Singh and his cross-examination was deferred at the request of counsel for the defendant-respondent. On the aforesaid date, the matter was listed in the Court of Sh. Jaspreet Singh, Civil Judge



(Junior Division), Rupnagar. Perusal of the impugned order would show that on 08.10.2024, the file was received by way of transfer in the Court of Sh. Sukhwinder Singh, Additional Civil Judge (Senior Division), Rupnagar. After observing that the issues were framed on 07.02.2024 and that the plaintiff-petitioner has availed sufficient opportunities but failed to conclude her evidence, the Court below closed the evidence of the plaintiff vide impugned order dated 08.10.2024 (Annexure P-1).

7. In the case at hand, it is apparent from the record that there was no prior notice that the case file was transferred from the Court of Civil Judge (Junior Division), Rupnagar to that of Additional Civil Judge (Senior Division), Rupnagar. In view of the aforesaid conceded position, it is most probable that a party litigant is likely to have missed appearing before the concerned Court on account of transfer from one Court to the other. It is notable that the plaintiff had partly examined PW-1 on 08.08.2024 and on the very next hearing, the evidence of the plaintiff was closed by order of the Court. It has very fairly been stated by learned counsel for the petitioner that after passing of the impugned order, the defendant-respondent has examined-in-chief DW-1 Baljit Singh by way of tendering into evidence his sworn affidavit on 05.11.2024. However, the said witness has not been cross-examined as yet. The trial is still at the stage of defendant's evidence and the petitioner will not seek any adjournment for availing the opportunity for concluding her evidence.

8. In *Bhagwan Dass Jindal vs. Shree Sanatan Dharam*



Sabha (Regd.) Bathinda and others, 2024(1) RCR(Rent) 437, a coordinate Bench held that the rules of procedure are handmaids of justice. They cannot be allowed to thwart real and substantial justice between the parties. The valuable right of litigants to establish their cases by adducing evidence ought not to be taken away by the Court except in a case of their deliberate omission/failure to produce evidence, more so if the other side can be compensated by costs.

9. It is trite law that all the parties to the *lis* should be granted adequate opportunity to present their case before the Court by permitting them to lead their evidence. The Apex Court in ***The State of Punjab and another vs. Shamlal Murari and another***, (1976) 1 SCC 719, observed that Courts are to do justice and not to wreck the end product on technicalities.

10. In view of the above discussion, the instant petition deserves to be allowed. Resultantly, the same is disposed of and the impugned order dated 08.10.2024 is set aside while directing the trial Court to grant one effective opportunity to the plaintiff-petitioner to present PW-1 Pal Singh for his cross-examination and conclude her entire evidence subject to costs of Rs.5000/- to be paid to the defendant-respondent. Accordingly, liberty is also granted to the defendant-respondent to examine/re-examine DW-1 before proceeding to adduce his further evidence.

11. As the present revision petition is being disposed in the absence of the respondent, liberty is granted to him to seek recalling of



the present order, if valid grounds for the same are made out.

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

December 04, 2024
sumit.k

(VIKAS SURI)
JUDGE

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