

2025:PHHC:030007



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

208

CR-3558-2022 (O&M)

Date of Decision : 03.03.2025

HARJINDER SINGH AND ORS

.... Petitioners

VERSUS

GURPREET SINGH AND ORS

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Gagandeep Singh Virk, Advocate for the petitioners.

Mr. Gurcharan Dass, Advocate for respondent No.1.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 22.07.2022 (Annexure P-1) which reads as under :

'Case is fixed for plaintiff's evidence.

No PW is present. Perusal of the file shows that the present case is more than 5 years old case and issues in the present case were framed on 14.03.2017 and till date the case is pending for plaintiff's evidence. Plaintiff has already availed sufficient opportunities till date for concluding his entire evidence, but he has failed to do so. Infact, plaintiff has not even examined a single witness despite the fact that 5 years have passed since the case was fixed for plaintiff's evidence.

There is no justification for adjourning the case for plaintiff evidence. Accordingly, evidence on behalf of plaintiff stands closed by court order and the case is fixed for 05.08.2022 for defendant's evidence.

However, in the interest of justice, it is made clear that if on the date fixed, plaintiff produces his witnesses, they shall be examined by the Court before recording the evidence of the defendant's witnesses'.

Subsequently on 05.08.2022 plaintiff-respondent No.1, namely, Gurpreet Singh, tendered his duly sworn affidavit as Ex.PA along with documents Ex.P-1 to Ex.P-11 and the matter was adjourned for cross-examination of PW-1 only and the remaining evidence of plaintiff-respondent No.1 was closed by order. On 24.08.2022 counsel for the defendant-petitioners stated that he does not want to cross-examine the witness on the said date as the defendant-petitioners were preferring a revision petition before this Court challenging the order dated 22.07.2022. The present revision petition was filed on 30.08.2022.

2. Learned counsel for the defendant-petitioners would contend that as per Order 17 Rule 1 proviso CPC not more than 3 adjournments are to be given to the parties during the hearing of the suit. Learned counsel has further referred to Order 17 Rule 3 Sub-Rule A to contend that once the evidence is not lead, the Court should proceed to decide the suit forthwith. In support of his arguments, learned counsel has relied upon the judgment passed by the Hon'ble Supreme Court in the case of **M/s Shiv Cotex V/s**

Tirgun Auto Plast P. Ltd. & Ors. [2011 (4) RCR (Civil) 807] and by this Court in the cases of **RSA-2448 of 2023 [Shri Rishi Balmiki Mandir & Ors. V/s Gurdev Singh & Ors. decided on 09.08.2024]; Manjit Singh V/s Joginder Kaur [2020 (1) RCR (Civil) 701]** and **Rajinder Singh V/s Jagran Agent Private Limited & Anr. [2019 (2) PLR 23]**.

3. *Per contra*, learned counsel for plaintiff-respondent No.1 would contend that the impugned order dated 22.07.2022 merged with the order dated 05.08.2022 and infact the evidence of plaintiff-respondent No.1 was led on the said date and the case was adjourned only for cross-examination of plaintiff-respondent No.1 and till date no challenge has been laid to the said order dated 05.08.2022. It is further the contention that the order closing the evidence of plaintiff-respondent No.1 was a conditional order and the condition so imposed vide order dated 22.07.2022 was duly complied with on 05.08.2022.

4. Heard.

5. In the present case the Trial Court passed a conditional order on 22.07.2022 closing the evidence of plaintiff-respondent No.1 however making it clear that in case plaintiff-respondent No.1 produced the evidence on the adjourned date, he shall be examined by the Court before recording the evidence of the defendant-petitioners. On the adjourned date i.e. 05.08.2022 the plaintiff-respondent No.1 filed his affidavit in Examination-in-Chief which was taken on record as Ex.PA along with documents Ex.P-1 to Ex.P-11. The counsel for the defendant-petitioners had sought time to cross-examine the said plaintiff witness. Order dated 22.07.2022, which is a

conditional order, was duly complied with by plaintiff-respondent No.1 on 05.08.2022 and plaintiff-respondent No.1 even led his evidence tendering his affidavit in Examination-in-Chief along with other documents. There is no challenge to the said order in the present revision petition.

6. Further still, the question of applicability of Order 17 Rule 3(a) CPC and 17(1) CPC would not come into play in the present case as the order dated 22.07.2022 was a conditional order passed and plaintiff-respondent No.1 in due deference of the said order led his evidence on 05.08.2022 which order has not been challenged till date. It is apt to notice that the defendant-petitioners themselves had taken six dates for filing their written statement and still further three dates for filing a reply to the stay application which itself is in complete violation of the provisions sought to be relied upon by the counsel for the defendant-petitioners.

7. In view of the above, I do not find any merit in the present revision petition and the same being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

03.03.2025

Aman Jain

(ALKA SARIN)

JUDGE

*NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No*