

**CR-6090-2023****-1-****119****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CR-6090-2023****Date of decision:-05.02.2025**

Dashmesh Trading Company

...Petitioner

Versus

Bhupinder Singh

...Respondent

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL**Present** : Ms. Sheena Khanna, Advocate
for the petitioner.

SUVIR SEHGAL, J.(ORAL)

1. Instant revision petition has been filed under Article 227 of the Constitution of India for setting aside order dated 12.09.2023, Annexure P1, passed by the learned Additional Civil Judge (Sr.Divn.), Phillaur, whereby petitioner/plaintiff's evidence has been closed by order.

2. Counsel for the petitioner states that the petitioner, who is a commission agent, had lent an amount of Rs.3 lakhs to the respondent – defendant by way of a cheque and on his failure to return, filed a civil suit, Annexure P2, for recovery of Rs.3,24,000/-, which is being contested by the respondent. He submits that after the framing of the issues, petitioner started leading his evidence, but due to the outbreak of

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the pandemic and non-appearance of the witnesses, petitioner could not wind up the evidence, resulting in the passing of the impugned order. She has requested for grant of one opportunity to the petitioner to produce the entire evidence at its own risk and cost.

3. I have heard counsel for the petitioner and considered her submissions.

4. Despite notice, respondent has not put in appearance.

5. A perusal of the impugned order shows that the petitioner has been lax in leading evidence and after availing fifteen opportunities, including a last opportunity, has failed to conclude the evidence. Trial Court imposed cost of Rs.1,000/- on the petitioner on 12.07.2023, which has also not been deposited, resulting in the passing of the impugned order. Despite the fact that the petitioner has not exercised due diligence, this Court is of the view that in case an effective opportunity is not granted to lead the remaining evidence, petitioner's case is likely to be seriously prejudiced. An opportunity, therefore, deserves to be granted, subject to imposition of cost.

6. Accordingly, petition is allowed and the impugned order dated 12.09.2023, Annexure P1, is set aside. Petitioner is granted one effective opportunity to lead its entire evidence at own responsibility, subject to deposit of cost of Rs.11,000/- with Sadhna Society for the Mentality Handicapped, near Housing Board Chowk, Raen Basera Building, Manimajra, Sector 13, Chandigarh. Deposit of cost shall be a condition precedent to the grant of opportunity to the petitioner.

7. Petitioner shall appear before the Trial Court on 28.02.2025 and the Trial Court would fix a date to enable the petitioner to produce



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its entire evidence at own risk and cost.

05.02.2025
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(SUVIR SEHGAL)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No