



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

204

CR-74-2024 (O&M)
Date of decision: 10.02.2026

Prem Chand Jain & Another

...Petitioner(s)

Vs.

Dalbara Singh

...Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Anil Kumar Garg, Advocate
for the petitioners.

Mr. Navdeep Jain, Advocate for
Mr. Sunny K. Singla, Advocate
for the respondent.

NIDHI GUPTA, J.

The present Revision Petition has been filed by the petitioners/plaintiffs seeking setting aside of the impugned order dated 06.12.2023 (Annexure P3) passed by Id. Civil Judge (Junior Division), Malerkotla whereby evidence of the petitioners has been closed by order.

2. It is inter alia submitted by learned counsel for the petitioners that petitioners had filed suit for recovery of Rs.6 lakh. To prove their case, the petitioners had sought to examine official from PNB Bank and had produced Clerk namely Anil Kumar. However, subsequently, Anil Kumar was transferred from the Malerkotla Branch. The petitioners had requested to



produce another Bank official. Trial court had sought particulars of the bank official. However, in the meantime, the impugned order came to be passed in haste. It is accordingly prayed that the impugned order be set aside and petitioners be granted one effective opportunity to produce the plaintiff witnesses for purpose of examination and cross-examination.

3. Per contra, learned counsel for the respondent opposes the submissions of the petitioners and points out that the fact that Anil Kumar had been transferred was in the knowledge of the petitioners as far back as on 16.08.2023. Yet the petitioner had failed to provide the correct particulars of the witness on four dates thereafter; whereupon the impugned order came to be passed. It is submitted that, therefore, the impugned order suffers from no error. In support, Learned counsel relies upon judgment of Hon'ble Supreme Court in **Shiv Cotex v. Tirgun Auto Plast P. Ltd. (SC) : Law Finder Doc Id # 271160**, to submit that no further opportunity is required to be given to the petitioners, and present petition be dismissed.

4. No other argument is raised on behalf of the parties. I have heard learned counsel and perused the case file in great detail. I find merit in the submissions advanced on behalf of the appellant.

5. The petitioner had filed suit for recovery on dated 19.11.2018 (Annexure P1). Issues in the case were framed as far back as on 23.03.2021. However, despite grant of numerous opportunities from date of framing of issues on 23.3.2021, till date of passing of impugned order on 6.12.2023, petitioners had failed to conclude their evidence.



6. A perusal of zimni orders (Annexure P2 colly.) reveals that petitioners have been granted numerous opportunities to lead and conclude evidence, however, have failed to do so. Following are the relevant zimni orders from 12.4.2023 till 6.12.2023: –

“PW Anil Kumar from Punjab National Bank is present but seeks adjournment as bank documents not available with him. Request considered and allowed.

PW Prem Chand is also present but could not be examined as Id counsel for defendant also seeks adjournment. Requests heard and allowed. On request, case is adjourned to 12.07.2023 for plaintiff evidence. Witnesses present in the court are bound down for the date fixed. Id counsel for defendant is directed to cross examine first witness Prem Chand as he is old age. Witness Anil Kumar from Punjab National Bank directed to brought the documents on the next date of hearing.

Dated 12.04.2023.”

“PW 1 Prem Chand and partly cross examined. His further cross examination is deferred for want of original documents. On request, case is adjourned to 16.08.2023 for further cross examination of PW 1 and for remaining plaintiff evidence. PW Anil Kumar from Punjab National Bank was bound for today but he failed to appear before the Court. Let, notice to him be issued for the date fixed. Witness PW 1 Prem Chand is bound down for the date fixed.

Dated 12.07.2023.”



“No PW is present. PW1 namely Prem Chand has not come present today despite being bound down for his cross-examination. Let fresh summons to him be issued for 20.09.2023.

Summons issued to concerned clerk of PNB, Malerkotla namely Anil Kumar received back with the report that he has been transferred to Kanpur City. Plaintiff is directed to file the correct particulars of above said witness within seven days and thereafter, he be summoned for the date fixed.

Perusal of file reveals that issues in the present have been framed on 23.03.2021 but till today plaintiff has not concluded its entire evidence. In the interest of justice, one final and last opportunity is granted to plaintiff for the conclusion of its entire evidence. Adjourned to 20.09.2023 for remaining evidence of plaintiff.

Date of Order: 2023-08-16”

(Emphasis added)

“PW namely Prem Chand is present and cross-examined completely.

Correct particulars of witness concerned clerk of PNB Malerkotla namely Anil Kumar not filed. Plaintiff is directed to file the correct particulars of above said witness within seven days and thereafter, he be summoned for the 11.10.2023.

Perusal of file reveals that issues in the present case have been framed on 23.03.2021 but till today plaintiff has not concluded its entire evidence. In the interest of justice, one final and last opportunity is granted to plaintiff for the conclusion of its entire evidence. Adjourned to 11.10.2023 for remaining



evidence of plaintiff. It is made clear that no further opportunity shall be granted for the same purpose.

Date of Order: 2023-09-20"

"PW namely Ankush Garg from DCB Bank, Malerkotla is present and partly cross-examined and further cross-examination is deferred for want of document i.e. authorization letter. Hence, said witness stands bound down for 08.11.2023 with the direction to bring requisite document. It was final and last opportunity granted to plaintiff but plaintiff brought witness after lunch due to which required document cannot be brought and cross-examination was to be deferred.

No other PW is present. Correct particulars of witness concerned clerk of PNB Malerkotla namely Anil Kumar not filed. Plaintiff is directed to file the correct particulars of above said witness at the earliest and thereafter, he be summoned for the 08.11.2023.

Perusal of file reveals that issues in the present case have been framed on 23.03.2021 but till today plaintiff has not concluded its entire evidence. In the interest of justice, one final and last opportunity is granted to plaintiff for the conclusion of its entire evidence. Adjourned to date fixed for remaining evidence of plaintiff. It is made clear that no further opportunity shall be granted for the same purpose.

Date of Order: 2023-10-11"

"PW namely Ankush Garg from DCB Bank, Malerkotla is present and cross-examined completely. PW namely Abhay Kumar Jain is present and examined-in-chief and his cross-



examination is deferred at the request of counsel for defendant. Hence, said witness stands bound down for 22.11.2023.

No other PW is present. Correct particulars of witness concerned clerk of PNB Malerkotla namely Anil Kumar reported to be filed very late. Now, he be summoned for the date fixed.

Perusal of file reveals that issues in the present case have been framed on 23.03.2021 but till today plaintiff has not concluded its entire evidence. In the interest of justice, one final and last opportunity is granted to plaintiff for the conclusion of its entire evidence. Adjourned to 22.11.2023 for cross-examination of PW Abhay Kumar Jain and for remaining evidence of plaintiff. It is made clear that no further opportunity shall be granted for the same purpose.

Date of Order: 2023-11-08"

"PW namely Abhay Kumar Jain is present and cross-examined completely.

No other PW is present. Summons issued to PW concerned clerk of PNB Malerkotla namely Anil Kumar not received back. Fresh summons to him be issued for 06.12.2023.

Perusal of file reveals that issues in the present case have been framed on 23.03.2021 but till today plaintiff has not concluded its entire evidence. In the interest of justice, one final and last opportunity is granted to plaintiff for the conclusion of its entire evidence. Adjourned to 06.12.2023 for remaining evidence of plaintiff. It is made clear that no further opportunity shall be granted for the same purpose and if



plaintiff failed to conclude his entire evidence on the date fixed then plaintiff evidence will be closed by order.

Date of Order: 2023-11-22"

7. A bare reading of the above orders shows that as far back as on 16.8.2023, it was recorded that Bank Official namely Anil Kumar had been transferred; and consequentially petitioner had been directed to provide the correct particulars of the bank official who had to be examined. Thereafter, further last opportunities to do the needful were given to the petitioners on 20.9.2023; 11.10.2023; 8.11.2023; and 22.11.2023. As the petitioner still failed to do the needful, consequentially, on the next date of hearing i.e. 06.12.2023, the impugned order came to be passed.

8. In these circumstances, reference needs to be made to judgment of Hon'ble Supreme Court in **Shiv Cotex (supra)**, relevant part of which is as under:-

"C. Civil Procedure Code, Order 17, Rule 1 - Grant of adjournments during pendency of suit - Adjournments have grown like cancer corroding the entire body of justice delivery system - It is sad, but true, that the litigants seek and the courts grant adjournments at the drop of hat - Though provisions of Order 17 Rule 1 of C.P.C. are not mandatory, but adjournments beyond three may be granted for justifiable cause - Justifiable cause means a cause which is not only sufficient cause as contemplated under Order 17 Rule 1 of C.P.C., but unavoidable and sort of compelling necessity like sudden illness of the litigant



or the witness or the lawyer; death in the family of any one of them; natural calamity like floods, earthquake, etc. in the area where any of these persons reside; an accident involving the litigant or the witness or the lawyer on way to the Court and such like cause - The list is only illustrative and not exhaustive...”

9. In view of the above noted, factual and legal position, present petition accordingly stands **dismissed**.

10. Pending application(s) if any also stand(s) disposed of.

10.02.2026
Sunena

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No