

(2012) 11 P&H CK 0145

High Court Of Punjab And Haryana At Chandigarh

Case No: C. R. No. 6612 of 2012 (O and M)

Heena Arora

APPELLANT

Vs

Dalbara Singh and another

RESPONDENT

Date of Decision: Nov. 7, 2012

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 17 Rule 1
- Constitution of India, 1950 - Article 227

Hon'ble Judges: L.N. Mittal, J

Bench: Single Bench

Advocate: Namit Gautam, for the Appellant;

Final Decision: Dismissed

Judgement

L.N. Mittal, J.

CM No. 27853-CII of 2012

1. Allowed as prayed for.

Main Case

Plaintiff Heena Arora has filed this revision petition under Article 227 of the Constitution of India, assailing order dated 09.10.2012 Annexure P-3 passed by the trial court, thereby closing evidence of plaintiff-petitioner by Court order.

2. I have heard learned counsel for the petitioner and perused the case file.

3. Counsel for the petitioner prayed that only one more opportunity may be granted to the plaintiff-petitioner for her remaining evidence at own responsibility on payment of costs.

4. I have carefully considered the aforesaid prayer but cannot accept the same.

5. It has to be noticed that unfortunately many material dates have been wrongly mentioned in paragraphs 2(iv) and 3 of the revision petition.
6. Perusal of various proceedings and zimni orders, mentioned in the revision petition, reveals that more than 14 opportunities have been granted to the petitioner for her evidence. In addition to it, some more opportunities were also granted but have not been mentioned. The petitioner has thus not even mentioned all the necessary facts in the revision petition. The only material fact in such revision petition is regarding number of opportunities for evidence granted to the petitioner, but the said fact has not been clearly spelt out in the revision petition. Some of the dates fixed for evidence of the plaintiff-petitioner have been mentioned but some other dates fixed for the same purpose have been omitted. Be that that as it may. In view of large number of adjournments granted to the petitioner, no further opportunity is required to be granted to her for her evidence.
7. It may be mentioned that on two dates of hearing, counsel for defendants sought adjournment being unwell or for some other reason, but even excluding the same, the number of opportunities granted to the plaintiff-petitioner for her evidence far exceeds the number of opportunities required to be granted. Order 17 Rule 1 of the CPC stipulates grant of only three opportunities to a party for its evidence. The said provision being rule of procedure may be followed with some flexibility and not with extreme rigidity. However, at the same time, it has to be noticed that the said provision has been introduced for expeditious disposal of the suits and is thus a salutary provision to avoid widespread criticism of the system regarding delay in disposal of the cases. Consequently the said provision cannot be completely bypassed and made redundant. In the instant case, it appears that even after excluding adjournments sought by counsel for defendants, the petitioner-plaintiff availed of 15 or more opportunities for her evidence. Consequently prayer for another opportunity for her evidence cannot be accepted. For the reasons aforesaid, I find no merit in this revision petition. Impugned order of the trial Court does not suffer from any perversity, illegality or jurisdictional error so as to call for interference by this Court in exercise of supervisory power under Article 227 of the Constitution of India. On the contrary, trial Court has already granted over indulgence to the plaintiff-petitioner by granting her so many adjournments for her evidence. The revision petition is accordingly dismissed in limine.