

2025:PHHC:115009



CR No.326 of 2020

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

135

CR No.326 of 2020 (O&M)
Date of Decision: 27.08.2025

AKSHEY KUMAR**.....Petitioner(s)****Vs****RANJIT SINGH GILL AND ORS****....Respondent(s)****CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

Present: Mr. S.K. Chaudhary, Advocate
for the petitioner.

Mr. Naveen Kumar, Advocate for
Mr. K.S. Gill, Advocate
for respondent Nos.1 to 5.

HARKESH MANUJA, J. (Oral)

[1]. By way of present petition filed under Article 227 of the Constitution of India, challenge has been laid to the orders dated 10.01.2020 and 14.11.2019 passed by the learned Civil Judge (Senior Division) Pathankot, whereby the evidence of the petitioner-defendant No.1 was closed by Court order and opportunity to cross-examine PW-5 and PW-6 was recorded as not availed.

[2]. Briefly stating, a suit for recovery of Rs.28,20,000/- came to be filed at the instance of respondent No.1/plaintiff on 30.05.2017 against petitioner/defendant No.1 based on sale deed executed between the parties. Upon notice, separate written statements were filed by petitioner/defendant No.1 and other defendants and thereafter the case was fixed for plaintiff's evidence on 07.12.2018. Respondent No.1/plaintiff concluded his evidence on 04.12.2019.



CR No.326 of 2020

Thereafter, petitioner/defendant No.1 having availed five opportunities could not conclude his evidence and the same was closed by Court order on 10.01.2020. Prior thereto, vide order dated 14.11.2019, it was recorded by the Trial Court that opportunity to cross-examine PW-5 and PW-6 by defendant Nos.1 and 2 was treated as given but not availed.

[3]. In the aforesaid facts and circumstances, learned counsel for the petitioner/defendant No.1 submits that the determination of suit involves substantial rights of the parties and in case the petitioner is not afforded an opportunity to substantiate his defence and to cross-examine PW-5 and PW-6, he would suffer an irreparable loss and injury. He also submits that non-appearance of the petitioner/defendant No.1 before the Trial Court on 14.11.2019 for cross-examination of PW-5 and PW-6 was for *bona fide* reasons.

[3.1]. Learned counsel again points out that though the petitioner was afforded five effective opportunities for concluding his evidence, however, the same were all within a span of 28 days whereas respondent No.1/plaintiff took almost a year to conclude his evidence, thus no sufficient time was given to petitioner/defendant No.1 to conclude his evidence. In such circumstances, learned counsel prays for setting aside of the impugned orders.

[4]. I have heard learned counsel for the parties and gone through the paper book.

[5]. Apparently there does not appear to be any jurisdictional error with the discretion exercised by the Trial Court while passing the impugned orders, however, purely in the interest of justice, besides, considering the fact that a recovery suit has been filed against the petitioner/defendant No.1 at the instance of

2025:PHHC:115009



CR No.326 of 2020

respondent No.1/plaintiff; in case the impugned orders are allowed to stand and petitioner/defendant No.1 is denied an opportunity to lead evidence, he will suffer substantial prejudice to his rights and would not be in a position to substantiate his defence raised in the written statement; two effective opportunities are granted in his favour so as to conclude his entire documentary as well as oral evidence at his own risk and responsibility. The next date of hearing i.e. 06.09.2025 fixed before the Trial Court shall be treated as first opportunity to the petitioner/defendant No.1 to lead his evidence and the next chance/date shall be fixed by the Trial Court. The same shall, however, be subject to payment of cost(s) of Rs.25,000/- to be paid by the petitioner/defendant No.1 to respondent No.1-plaintiff on the date fixed.

[6]. In view of above, the impugned order dated 10.01.2020 passed by the learned Civil Judge (Senior Division) Pathankot is hereby set aside. Present revision petition allowed to the above extent.

[7]. Pending application(s), if any shall also stand disposed of.

August 27, 2025

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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No