



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

120

Civil Revision No.3050 of 2025 (O & M)

Date of decision :-20.05.2025

Gurmail Singh

.....Petitioner

Versus

Tirath Singh

.....Respondent

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Kulbir Singh Saini, Advocate
for the petitioner.

NIDHI GUPTA J. (Oral)

Prayer in this petition is for setting aside the impugned order dated 28.4.2025 (Annexure P-8) passed by the learned Civil Judge (Jr. Divn.), Patiala, in Civil Suit No.1223-2021, titled as 'Tirath Singh vs. Gurmail Singh', vide which the evidence of the petitioner/defendant was closed by Court order.

On 28.04.2025 the following impugned order was passed by the learned Civil Judge (Jr. Divn.), Patiala :-

“No DW is present. 4 opportunities availed. The defendant has not examined a single witness in the present case. He has not even filed any list of witnesses. The defendant's counsel has failed to explain any reason for the adjournment of the case for his evidence. The court is satisfied that sufficient number of opportunities were granted to the defendant to lead evidence in the present case but he failed to examine even a



single witness. Finding no justification for further adjourning the case for the evidence of the defendant, the evidence of the defendant is hereby closed by order. Matter be now listed for 07.05.2025 for final arguments.”

It is not denied by learned counsel for the petitioner that the petitioner/defendant had availed four opportunities for leading evidence. It is submitted that the petitioner was unable to lead his evidence as the petitioner is an old age person being 65 years old and suffering from various ailments.

Heard.

Perusal of file reveals that the respondent/plaintiff had filed a suit for permanent injunction against the petitioner/defendant on 12.7.2021 (Annexure P-1). The petitioner filed written statement therein on 09.2.2022 (Annexure P-2). The issues were framed on 21.3.2022 (Annexure P-3) and the case was adjourned to 18.5.2022 for plaintiff's evidence. On 07.3.2025 the respondent has closed evidence in affirmative after tendering the documents vide his separate statement. Thereafter, the matter was listed for 21.3.2025 for defendant's evidence. On 21.3.2025 and 04.4.2025, 18.4.2025 and 28.4.2025 no defendant's witness was present to tender evidence. As such, the evidence of the petitioner/defendant was closed by Court order. Learned counsel submits that the petitioner would suffer irreparable loss if the impugned order dated 28.4.2025 (Annexure P-8) is not set aside. At the very outset, learned counsel submits that one effective opportunity may be granted to the



petitioner herein to conclude his evidence, as grave injustice will be caused to him if he is not permitted to do so.

After hearing learned counsel for the petitioner, issuance of notice of motion is dispensed with at this stage, as it will cause further delay in disposal of the case. Accordingly, keeping in view the above facts as canvassed by learned Counsel for the petitioner, this petition is allowed and impugned order dated 28.4.2025 (Annexure P-18) is set aside. The learned Court below is directed to grant one effective opportunity to enable the petitioner herein to conclude his evidence, however subject to payment of Rs.20,000/- as costs to the respondent herein within a period of two weeks from today, failing which, the present petition shall stand automatically dismissed, without further reference to this Court.

Disposed of as above.

Pending application(s), if any, stands disposed of.

May 20, 2025

Vijay Asija

**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No