

(2011) 01 P&H CK 0226

In the Punjab And Haryana At Chandigarh

Case No : Civil Revision No. 105 of 2011 (O and M)

Punjab State Civil Suplies Corporation Ltd. and Another

APPELLANT

Vs

Satwinder Kumar and Another

RESPONDENT

Date of Decision : 06-01-2011

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2011) 01 P&H CK 0226

Hon'ble Judges : Ram Chand Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ram Chand Gupta, J.—The present revision petition has been filed under Article 227 of the Constitution of India for setting aside order dated 23.10.2010, Annexure P1, passed by learned Civil Judge, Senior Division, Ferozepur, in Civil Suit No. 239-1/ 30.7.2005, vide which review petition filed by the Petitioner for reviewing order dated 10.9.2010, Annexure P2, vide which evidence of the Petitioner was closed by court order, was dismissed.

2. I have heard learned Counsel for the Petitioners and have gone through the whole record carefully including the impugned order passed by learned trial Court.

3. Briefly stated the civil suit was filed by the Petitioner-Plaintiffs for recovery of Rs. 2,70,904/-on account of shortage of paddy and selling of paddy to private parties at a lower rate plus interest from 5.8.2002 till institution of suit @ 18% per annum alongwith pendente lite and future interest @ 3% per annum from the date of institution of suit till realisation against Respondent-Defendants.

4. The present suit was instituted on 30.7.2005. Issues were framed in this case on 19.1.2006 and the case was being adjourned for evidence of Petitioner-Plaintiffs. It has been observed by learned trial Court in the impugned order that as many as 16 opportunities were availed by Petitioner-Plaintiffs. They have also

availed four last opportunities and when no evidence was present even when it was 4th last opportunity, the evidence of Petitioner-Plaintiffs was closed vide order dated 10.9.2010 and that application filed for reviewing the said order was also dismissed vide impugned order against which the present revision petition has been filed.

5. Order dated 10.9.2010, closing the evidence of Petitioner Plaintiffs reads as under:

No PW is present nor served through court. Today is the 4th last opportunity granted to the Plaintiff to conclude his evidence. But he has failed to conclude his evidence. On 27.7.2010 learned Counsel for the Plaintiff has made a statement and given undertaking that his client will conclude the entire evidence on the next date at own responsibility, failing which the same may be presumed closed by order. So, I am of the view that if further opportunity is granted to the Plaintiff to lead evidence, it will not only prejudice the right of the other side, but will also frustrate the very purpose of granting last opportunity. So, accordingly the evidence of the Plaintiff is closed by order. Now to come up on 12.10.10 for evidence of the Defendant PF/DM and list of witnesses be filed within three days." It has been contended by learned Counsel for the Petitioner Plaintiffs that it was a case of wrong noting of date of hearing by counsel for the Petitioner-Plaintiffs in the trial Court and hence, the witness could not present on 10.9.2010.

6. However, this plea cannot be accepted as the same is contrary to the judicial order dated 10.9.2010 passed by learned trial Court, wherein even attendance of counsel for the Petitioner-Plaintiffs was recorded alongwith attendance of counsel for the Respondent-Defendants. Counsel for the Respondent-Defendants also contested the plea of Petitioner-Plaintiffs that it was a case of noting down of wrong date of hearing.

7. Law is well settled in *Surya Dev Rai v. Ram Chander Rai and Ors.* 2004(1) RCR 147 that mere error of fact or law cannot be corrected in the exercise of supervisory jurisdiction of this Court. This Court can interfere only when the error is manifest and apparent on the face of proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law and a grave injustice or gross failure of justice has occasioned thereby.

8. In my view it is not such a case in which grave injustice or gross failure of justice has occasioned as Petitioner-Plaintiffs were given sufficient opportunities to adduce the evidence by learned trial Court. As many as 16 opportunities were granted and four last opportunities were granted. Even despite that complete evidence was not adduced by Petitioner-Plaintiffs. Hence, no relief can be granted to them in this revision petition.

9. In view of these facts, it cannot be said that any illegality or material irregularity has been committed by learned trial Court in passing the impugned order, warranting interference by this Court.

10. There is no merit in the present revision petition. The same is hereby dismissed.