

CR-4120-2015(O&M)

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

**CR-4120-2015(O&M).
Decided on: July 6, 2015.**

Deepak Kumar

... Petitioner(s)

VERSUS

Chandigarh Administration and others

... Respondent(s)

*** * ***

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

PRESENT Mr.R.K.Verma, Advocate, for the petitioner.

M.M.S. BEDI, J (ORAL).

Vide impugned order dated 12.3.2015, the trial Court having fed up with the conduct of the plaintiff of having not been able to complete his evidence despite repeated opportunities has closed the evidence of the plaintiff as despite four opportunities neither the plaintiff himself was present nor any other witness was present on said date.

Counsel for the petitioner has drawn the attention of this Court to the interim orders passed by the Court below indicating that on 10.12.2014, PW.1 plaintiff and another witness PW.2 was examined-in-chief. Thereafter, the case was adjourned but the said witnesses were not available for cross-examination.

Counsel for the petitioner further submits that the Court has not recorded the cross-examination of the witnesses who have already tendered their affidavits. He claims that the evidence has been closed without giving a fair opportunity for cross-examination of those witnesses.

I have heard learned counsel for the petitioner.

A perusal of the impugned order indicates that on account of plaintiff and his witnesses having not been produced till date the Court was compelled to close the evidence. The order passed by the Court appears to be in consonance with the authority vested in the Court under Order XVII Rule 2 (e) CPC, but in the interest of justice, I deem it appropriate to give one opportunity to the petitioner to produce his witnesses whose affidavits have already been tendered by the petitioner as per provision of Order XVIII Rule 4 CPC.

This petition is allowed in limine in the interest of expeditious disposal of the suit which appears to be pending for the last more than five years and to save unnecessary expenditure and harassment of the parties. Impugned order dated 12.3.2015, is hereby set aside. It is ordered that Deepak Kumar and other PWs who have already tendered their affidavits will be examined by the Court by fixing one date subject to payment of costs of Rs.5,000/-. Counsel for the petitioner has undertaken to produce all those witnesses whose affidavits have been tendered in evidence on 20.7.2015. In case the petitioner does not produce himself or his witnesses on said date or the costs is not paid, this petition will be deemed to have been dismissed.

July 6, 2015.
rka

(M.M.S. BEDI)
JUDGE