

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

CR No.7618 of 2013

Date of decision : 06.08.2015

Sulakhan Singh

....Petitioner

Versus

Jasbir Kaur & ors.

....Respondents

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

Present: Mr. Vipin Mahajan, Advocate
for the petitioner.

Mr. Deepak Arora, Advocate
for respondent No.1.

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

This is defendant's revision petition against the order dated 14.11.2013 closing the evidence of the petitioner/defendant by order.

A perusal of the impugned order indicates that the case being part of Action Plan list 2013-14, the trial court has closed the evidence.

Learned counsel for the petitioner has drawn my attention towards the interim orders reproduced in the petition to show that effective opportunities have not been granted to the petitioner to complete his entire evidence. It has been argued by learned counsel for the petitioner that DW-2 Waris Masih had furnished his affidavit on 24.10.2013. The petitioner was present in Court on 24.10.2013 and paid costs of Rs.200/- but DW-2 Waris Masih was not cross-examined after lunch. Perusal of the order dated 24.10.2013 indicates that costs was not paid, though counsel for petitioner refers to Annexure P-6 to show that the costs was paid on that day.

Learned counsel for both the parties agreed that this order was passed before lunch but the costs was offered after lunch whereas

Presiding Officer had gone on leave for post lunch period.

Without going into the controversy regarding the costs having been offered or not, I am of the opinion that the defendant/petitioner deserves to get a fair opportunity to get his witnesses examined especially when he had appeared as DW-2 on 24.10.2013.

This petition is allowed. The order dated 24.10.2013 (Annexure P-6) and order dated 14.11.2013 (Annexure P-9) are hereby set aside with a direction that the trial Court shall fix a date for enabling the defendant/petitioner to produce his entire evidence. The defendant/petitioner will produce his entire evidence at his own responsibility on the date fixed subject to payment of costs of Rs.5,000/- to the respondents. It is made clear that in case the petitioner fails to pay the costs or to produce any evidence on the date fixed by the trial Court, this petition will be deemed to have been dismissed.

06.08.2015
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(M.M.S. BEDI)
JUDGE