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

**Civil Revision No.3727 of 2016
Date of decision : 26.07.2016**

SARABPREET SINGH

...Petitioner

versus

GURTEK SINGH

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Ashok Kumar Khunger, Advocate
for the petitioner.

Mr. Vivek Goyal, Advocate
for the respondent.

RAJ MOHAN SINGH, J. (ORAL)

This revision petition has been filed by defendant-Sarabpreet Singh against the orders dated 11.01.2016 and 11.05.2016, closing evidence of the defendant by order of the Court and dismissing the application for recall made by the defendant on the same day.

Notice of motion was issued on 26.05.2016 and passing of final order by the trial Court was stayed till today. Pursuant to order of notice of motion, Mr. Vivek Goyal, Advocate appears on behalf of the respondent and in all fairness submits that one last opportunity be given to the petitioner-defendent to conclude his evidence, subject to

payment of adequate cost.

Perusal of the record reveals that on 11.01.2016, no PW was present. The adjournment as sought by the learned counsel for the defendant was opposed on the ground that sufficient opportunities were availed by the defendant to lead his evidence. In the order, learned trial Court observed that the evidence of the plaintiff was closed on 03.11.2015 and thereafter case was fixed for evidence of the defendant on 04.11.2015. From that day onwards, defendant availed as many as eight opportunities for leading his evidence to conclude the same despite last opportunity. On 11.01.2016, the defendant was not present and his evidence was closed by the order of the Court. The factum of defendant not being present was seriously disputed by the defendant on the ground that if he was not present, the Court was obligated to proceed him ex parte.

Be that as it may be, since the respondent has fairly offered concession in granting one opportunity to the defendant-petitioner, it would be just and appropriate to set aside the impugned orders dated 11.01.2016 and 11.05.2016 and grant one last opportunity to defendant-petitioner to conclude his evidence and produce his witness for cross-examination, subject to payment of cost of Rs.5,000/- to the plaintiff-respondent. Ordered accordingly. The payment of costs would be a condition precedent for leading evidence on behalf of the defendant-petitioner.

The revision petition is disposed of accordingly.

July 26, 2016

Rajneesh

(Raj Mohan Singh)
Judge

Whether reasoned/speaking

YES / NO

Whether reportable

YES / NO