

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

-.-

CR 8772 of 2015
Date of decision: 26.02.2016

Harjit Singh

..... *Petitioner*

Versus

Sardar Singh

.....*Respondent(s)*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Ms Ravinder Kaur Manaise, Advocate
for the petitioner

Mrs. Avinash Mandla, Advocate
for the respondent

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J. (Oral)

The present petition has been directed against the order dated 03.12.2015 (Annexure P3) passed by the Civil Judge (Junior Division) Gurdaspur, whereby evidence of the petitioner/defendant has been closed by order of the Court.

Counsel for the petitioner contends that though the case remained pending with effect from 27.05.2015 till 03.12.2015 for evidence of the petitioner/defendant but on two occasions, the Presiding Officer did not hold the Court. It is further submitted that brother of the petitioner initiated criminal proceedings against him by lodging FIR, the petitioner could not concentrate on the present litigation and was rendered helpless to be in touch with his counsel and to adduce evidence. It is prayed that one effective opportunity may be allowed to the petitioner to adduce his entire

evidence when otherwise, the respondent can well be compensated with costs for delay that likely to occur due to failure of the petitioner to adduce evidence in time.

Counsel for the respondent, on the contrary, has supported the impugned order with the submissions that as the petitioner has been allowed a number of effective opportunities to adduce evidence, he is not entitled to indulgence of the Court.

I have heard counsel for the parties and perused the records.

There is no challenge to the facts pleaded in para 7 of the petition that the petitioner had a dispute with his brother which led to registration of FIR against him and as a result, he was in a difficult situation. This apart, in case the petitioner is not allowed to adduce evidence, an adverse inference would be raised against him for his failure to rebut the evidence adduced by the respondent/plaintiff.

Keeping in view the facts and circumstances coupled with the prejudice likely to be caused to the petitioner in case he is not permitted to adduce evidence, the present petition is allowed subject to the condition that the petitioner shall be entitled to one effective opportunity to conclude his evidence and he would ensure presence of the witnesses at his own responsibility, subject to payment of Rs.5,000.00 as costs, to be deposited with the trial Court before the date fixed which shall be released in favour of the respondent/plaintiff by the Court below.

Disposed of accordingly.

(Rekha Mittal)
Judge

26.02.2016
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