

\$~32

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 492/2016 & C.M. No.18975/2016
SUSHIL KUMAR

..... Petitioner

Through Mr.Amit Gandhi, Advocate.

versus

S JASBIR SINGH

..... Respondent

Through None.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

%

18.05.2016

Petitioner is aggrieved by the order dated 09.3.2016 vide which his right to cross-examine PW-1 as also to lead evidence in defence stood closed. Submission is that the date of the impugned order i.e. on 09.3.2016 which the first date when the plaintiff had entered into the witness box. This submission is borne out from the record. The Court in the impugned order had noted that PW-1 Jasbir Singh had tendered his examination-in-chief; on that date the defendant sought adjournment to cross-examine PW-1 as his submission was that the evidence by way of affidavit of PW-1 had been handed over to him only on that date. The Trial Court in the impugned order had noted the submission of the learned counsel for the non-applicant which was to the effect that affidavit of PW-1 already stood dispatched to the petitioner.

At this stage, learned counsel for the petitioner submits that this

was only a courier receipt and the proof of the actual delivery of the affidavit is not a part of the record. This point is noted.

Record clearly shows that 09.3.2016 was in fact a first date on which date PW-1 had come into witness box. Learned counsel for the petitioner, on query, submits that he has only one witness to be examined (who is the sole defendant itself). Accordingly, in this background, impugned order dated 09.3.2016 is set aside.

The petitioner is granted liberty to cross-examine PW-1. He is also permitted to lead his evidence in defence which will be only one witness. The next date fixed before the Trial Court is 19.5.2016. The Trial Court shall adjourn the hearing tomorrow and fix a date according to his diary for the aforementioned purpose.

Petition disposed of.

Order dasti under signatures of the Court Master.

INDERMEET KAUR, J

MAY 18, 2016

ndn