

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CR-1721-2015

Date of decision : 26.09.2018

Surjit Singh and another

... Petitioners

Versus

Punjab and Sind Bank and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Ravish Bansal, Advocate
for the petitioners.

Mr. A.S.Kakkar, Advocate
for respondent no.1.

AMOL RATTAN SINGH, J.(ORAL)

Learned counsel for the petitioners submits that though the impugned order states that the petitioner no.1, i.e. defendant no.1 in the suit, had availed 4 effective opportunities to lead his evidence, without doing so, factually he was behind bars, having been arrested on an FIR registered at the instance of the respondent-plaintiff, i.e. the Punjab and Sind Bank.

He submits that he had also filed an application before the trial Court (in the civil proceedings) that he be produced in Court on production warrants being issued for his presence, so that he could lead evidence; but the jail/police authorities not having so produced him despite production warrants having been issued, non-appearance was not his fault..

In response, learned counsel for respondent no.1 submits that as even such non-production was on account of connivance between the petitioner and the jail/ police authority.

Upon being asked by this Court to substantiate that, or even

whether this Court should seek responses from the Superintendent of Jail and Superintendent of Police concerned, he submits that at this stage he has no such evidence to prove the contention.

That being so, this petition is allowed with the impugned order set aside and three opportunities granted to the petitioners to lead/conclude their evidence subject of course to counsel for the respondent-plaintiff seeking any time. In that situation, naturally, the number of dates on which the respondents' counsel seeks adjournment would be set off against the three opportunities to be granted to the petitioners.

It is to be noticed that though there is a second defendant also in the suit, i.e. petitioner no.2, she is admitted to be the wife of petitioner no.1, with the main allegations of embezzlement etc. being against petitioner no.1, the wife having been impleaded as a defendant in the suit only for the reason that for recovery of the amount contended to be due to the plaintiff, the house of the petitioners is sought to be sold, of which the wife is also a co-owner. Hence, despite her obviously not being “behind bars,” the person who could lead substantive evidence is petitioner-defendant no.1.

(AMOL RATTAN SINGH)
JUDGE

September 26, 2018.

D.K./dinesh

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No