

In the High Court of Punjab and Haryana at Chandigarh

229

CR No.3178 of 2016 (O&M)

Date of decision: 18.9.2018

BALBIR SINGH

.....petitioner

Versus

CHARANJIT SINGH BAJAJ AND ORS

.....respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Suveer Sheokand, Advocate,
for the petitioner.

Mr.Viren Jain, Advocate
for respondent No.1.

RAJ MOHAN SINGH, J.(oral)

This revision petition has been filed against the impugned order dated 10.3.2016 passed by the trial Court under Order 26 Rule 1 CPC.

It appears from the record that medical certificate dated 18.11.2015 issued by Dr.Sarvesh Mathur has been taken into consideration, while assessing medical infirmity of plaintiff -respondent No.1 to attend the court for giving his evidence. A perusal of the medical certificate dated 18.11.2015 would show that the same was for a period of two months w.e.f. 18.11.2015. Under Order 26 Rule 1 CPC, the Court may issue a commission for examination or interrogatories or otherwise of any person residing within the local limits of the Court, who is carrying

infirmity or sickness and is unable to attend the Court. In order to arrive at such a conclusion in respect of sickness or infirmity of a person, the Court has to be satisfied before ordering his examination by commission and the order has to be a reasoned one. A perusal of para No.6 of the impugned order would show that the trial Court has not adhered to the provision under which the application was filed.

For the reasons recorded here-in-above, I deem it appropriate to set aside the impugned order and remand this case to the trial Court to pass fresh order on the basis of latest medical status of the petitioner in terms of Order 26 Rule 1 CPC. The trial Court shall pass speaking order after recording its due satisfaction as per the requirement of Order 26 Rule 1 CPC. Respondent No.1 would be at liberty to place on record certificate of medical disability from a Government hospital.

Petition stands disposed of accordingly.

September 18, 2018
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(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/Speaking

Yes/No

Whether reportable

Yes/No