

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.126

C.R. No.3597 of 2018
Date of decision: 25.05.2018

Parkash Chand

....Petitioner

versus

Mohar Singh and another

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Manu Loona, Advocate
for the petitioner.

* * *

DEEPAK SIBAL, J. (Oral)

Through the present petition challenge is made to the order dated 25.04.2018 passed by the Additional Civil Judge (Senior Division), Fazilka, through which the defence of the petitioner-defendent No.1 has been struck off on the ground that in spite of several opportunities, including last opportunity granted to the petitioner, he had failed to produce his entire evidence.

Learned counsel for the petitioner *inter alia* submitted that out of three defence witnesses whom the petitioner intended to produce, he has already produced one but could not produce the remaining two witnesses primarily on the ground that the dates given to him by the trial Court for producing his witnesses were rather short and because of that he could not make arrangements for production of his witnesses. He further submitted that there was no intention on the part of the petitioner to delay the proceedings as he has already produced one of the three witnesses and

that he intends to produce his entire evidence without delay. It is further submitted that at the initial stage of the proceedings his defence may not be struck off and that if only one opportunity is granted to him, subject to payment of reasonable costs to be assessed by this Court, he shall produced his entire evidence.

Without opining on the reason given by the petitioner for not producing his entire evidence but in the peculiar facts of this case, in line with the principles of natural justice and not to close the doors of justice qua the petitioner at the initial stage of the trial, the request made by learned counsel for the petitioner is accepted subject to payment of ₹ 15,000/- as costs to the respondents. Accordingly, the petitioner is granted one opportunity to produce his entire evidence. Such evidence be produced by him on the next date of hearing, which is stated to be 30.05.2018 or on the subsequent date to be fixed by the trial court as per its convenience. However, the aforesaid costs shall be paid on 30.05.2018.

The present petition is being disposed of without notice to the respondents as it is felt that in case the respondents are called upon it would further delay the disposal of the matter before the trial court. However, in case the respondents are aggrieved by this order, they are at liberty to move an appropriate application before this Court for revival of the petition.

(DEEPAK SIBAL)
JUDGE

May 25, 2018
Jyoti 1

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No