

255

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

CR No.3883 of 2018

Date of Decision: 06.07.2018

Thakar Dass

....Petitioner

Vs

Roshan Lal and another

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Drupad Sangwan, Advocate,
for the petitioner.

RAJ MOHAN SINGH, J.(Oral)

1. As per office report, respondent No.1 has been served through wife and service qua respondent No.2 is also complete as per ordinary as well as dasti process.

2. Prayer in this petition is for setting aside the order dated 21.03.2018 passed by Civil Judge (Junior Division), Hisar whereby evidence of petitioner/defendant No.1 was closed by order of the Court.

3. Perusal of the impugned order would show that the evidence of petitioner/defendant No.1 was closed on the premise that despite five effective opportunities including last opportunity, defendant No.1 could not conclude his entire evidence and therefore, evidence was closed and the case was

adjourned for rebuttal evidence (if any) and for arguments. The evidence of the plaintiff was closed on 12.01.2018. The evidence of the plaintiff started w.e.f. 15.05.2017 after framing of issues on 24.04.2017. The plaintiff availed as many as 14 to 15 opportunities in leading his evidence. The evidence of the defendant started w.e.f. 29.01.2018. Since no DW was present on that date, the case was adjourned to 08.02.2018 at own responsibility of the defendant. Leading of evidence by the defendant was recorded at their own responsibility in the subsequent orders dated 08.02.2018, 16.02.2018 and 27.02.2018. Ultimately, vide order dated 13.03.2018, it was recorded that plaintiff No.1 shall conclude his evidence on the next date, otherwise it shall be deemed to be closed by order of the Court. Resultantly, the impugned order was passed on the next date i.e. 21.03.2018.

4. Perusal of the aforesaid interlocutory orders would show that the case was adjourned for short intervals from 29.01.2018 to 27.02.2018 in which four opportunities were granted. Ultimately, evidence of the defendant was closed on 21.03.2018.

5. Be that as it may, since the provision is handmaid of justice, the trial Court was required to give sufficient time to the defendant to arrange for evidence.

6. In my considered opinion, one more opportunity needs to be granted to the petitioner to conclude his entire evidence subject to payment of costs of Rs.10,000/- to be paid to the plaintiff.

7. One opportunity shall be availed by the defendant-petitioner on his own responsibility without seeking any process of the Court for summoning the witness.

8. Payment of costs shall be the condition precedent for granting indulgence by the trial Court in the aforesaid context.

9. Disposed of.

06.07.2018

Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No