

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

106

CR-4845-2018 (O&M)
Date of Decision : 18.8.2018

Raju

....Petitioner

vs.

Renu Sharma

....Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Aruz Khan, Advocate for the petitioner.

Mr. Kewal Krishan, Advocate for the respondent.

AJAY TEWARI, J. (Oral)

This petition has been filed against the order dated 28.5.2018 whereby the evidence of the petitioner-tenant was closed.

On 1.8.2018 the following order was passed :-

“Notice of motion.

Mr. Kewal Krishan, Advocate accepts notice and seeks an adjournment.

Adjourned to 18.8.2018. Meanwhile, let the petitioner and his witness appear before the trial Court on the next date and the respondent will provisionally cross-examine them. Their evidence will be considered only if this revision petition is allowed. In case, the petitioner and his witness do not appear, this petition would be liable for dismissal.

Copy of this order be given dasti under the signatures of the Bench Secretary.

To be shown in the urgent list.”

The essential facts are that on 5.12.2017 the Trial Court had closed the evidence of the petitioner but this order was not incorporated in the order sheet but was only mentioned on the index.

Learned counsel for the petitioner has argued that actually such an order cannot be construed to be an order in the eyes of law. Counsel for the respondent has however pointed out that merely because the order is not incorporated on the order sheet would not take away its character, once it is clear that such an order was in fact passed.

The issue which is raised by the counsel for the petitioner cannot be taken to be a simple issue. However, in my considered opinion it may not be necessary to go into this issue because counsel for the petitioner has very fairly stated that even if it is taken that the order was a judicial order and even if there was some negligence on the part of the petitioner yet in the interest of justice one opportunity can be granted to the petitioner so that he can present the only remaining witness for cross-examination and the respondent can be compensated by way of costs.

In my considered opinion, the argument has merit. It is stated that the case is now fixed for 5.9.2018 and in case the petitioner presents the only witness which is to be examined on 5.9.2018 and pays Rs. 10,000/- as costs, the Trial Court would allow that witness to give his testimony. It is made clear that in case that witness does not appear on 5.9.2018 this petition would be deemed to be dismissed.

The petition stands allowed with the abovesaid observation.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

18.8.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No