

(239)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-5074-2018 (O&M)

Date of Decision: 13.12.2018

NARINDER SINGH

.....Petitioner

Vs

BALWINDER SINGH AND ORS

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Ms. Monika, Advocate
for Mr. Bikram Singh, Advocate
for the petitioner.

Mr. M.S. Sidhu, Advocate
for respondent Nos. 1 to 3.

RAJ MOHAN SINGH, J.(Oral)

1. Mr. Sahil Sharma, Advocate has put in appearance and filed vakalatnama on behalf of respondent Nos. 4 and 5, which is taken on record.

2. The petitioner has assailed the order dated 18.05.2018 passed by learned Additional Civil Judge (Senior Division), Ludhiana (Annexure P-1) in Civil suit No. 42122 of 2013 vide which evidence of the plaintiff-petitioner was closed.

3. The case was adjourned for evidence of the

defendants. Perusal of the impugned order would show that the suit was filed on 05.12.2011 and the issues were framed on 20.12.2017. Despite availing number of opportunities, the plaintiff could not lead his evidence. The evidence was closed by order of the Court. At the time of issuance of notice on 08.08.2018, following order was passed;

“Learned counsel for the petitioner contends that at the time of passing of impugned order, there was no evidence led by the plaintiff and in such eventuality, the Court was required to decide the suit forthwith under Order 17 Rule 3 CPC. Adjourning the case for defendants evidence would entail in granting one opportunity to the plaintiff to lead evidence.

Notice of motion for 25.09.2018.

Dasti as well.”

4. Evidently when there was no evidence lead by the plaintiff, the Court was required to decide the suit forthwith in terms of Order 17 Rule 3 CPC.

5. Adjourning the case further for the defendants evidence would entail in grant of one opportunity to the plaintiff to conclude his evidence. In view of the facts and circumstances of the case, I deem it appropriate to set aside the impugned

order and grant one opportunity to the petitioner to conclude his entire evidence on a date to be fixed by the trial Court, however subject to payment of costs of Rs. 15,000/- to be paid to the defendants in equal proportionate. Payment of costs shall be the condition precedent for granting indulgence by the trial Court in the aforesaid context.

7. Petition stands disposed of accordingly.

December 13, 2018.

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No