

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.5963 of 2018(O&M)
Date of Decision: 06.12.2018

Abdul HaiPetitioner
Versus
Hajar Khan through LR's and othersRespondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Ashish Gupta, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.(Oral)

[1]. As per office report made by the Process Server, respondent No.1(i) Juned has been duly served. Respondent No.1(ii) has been served through Juned on the same address. Respondent No.2(i) has been served through his brother Hasan. Similarly, respondent No.2(ii) has been served through his brother Hasan. Respondent No.2(iii) Hasan has been served personally. Respondent No.2(iv) has been served personally. Respondent No.2(v) has been served through his mother as he has been impleaded through his mother as natural guardian.

[2]. In view of above, service is complete. There is no representation on behalf of the respondents.

[3]. In view of above, I proceeded to hear case on merits.

[4]. Petitioner has challenged the order dated 22.03.2018 passed by Civil Judge (Senior Division), Nuh whereby evidence of the petitioner was closed by order of the Court and order dated 20.08.2018 passed by the Civil Judge (Senior Division), Nuh whereby the application for recalling PW 6 for cross examination was dismissed.

[5]. Perusal of the record would show that issues were framed on 05.11.2016. Thereafter, an application was filed by the plaintiff for examination of expert witness and the same was allowed by the trial Court on 15.03.2017. Sh. Naresh Kataria, Handwriting and Fingerprint Expert was examined-in-chief on 11.05.2017. He has tendered his affidavit in examination-in-chief as PW 6. The witness could not appear on 30.05.2017 for his cross examination. Thereafter on 12.06.2017, the factum of death of defendant No.2 was brought to the notice of the Court and defendants were required to move appropriate application for bringing on record legal representatives of deceased defendant No.2. No such application was filed by the defendants, rather the plaintiff himself filed an application for bringing on record legal representatives of deceased defendant No.2 on 10.08.2017. In this way, proceedings upto 09.01.2018 were in the context of bringing on record the legal representatives of deceased defendant No.2 and the impugned

order was passed on 22.03.2018 vide which the evidence of the plaintiff was closed except evidence of PW-Azam Parvar. Notice of motion was issued with the aforesaid facts on record and the trial Court was directed not to pass final order in the meanwhile.

[6]. In view of aforesaid facts to which there is no denial or counter at the instance of the served respondents, I deem it appropriate to grant one opportunity to the petitioner to lead his evidence at his own responsibility subject to payment of cost(s) of Rs.10,000/- to be paid to the respondents in equal proportions. Trial Court shall fix a date on which the petitioner would be obligated to conclude his evidence subject to aforesaid cost(s). Payment of cost(s) shall be the condition precedent for granting any indulgence by the trial Court in the aforesaid context.

[7]. Disposed of.

06.12.2018

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**(RAJ MOHAN SINGH)
JUDGE**

**Whether reasoned/speaking
Whether reportable**

**Yes/No
Yes/No**