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

**CR No.7486 of 2018
Date of Decision: 29.11.2018**

Gajender Sharma

Petitioner

Versus

Jitender Kumar and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Alok Mittal, Advocate
for the petitioner.

Mr. Sanjay Mittal, Advocate
for the respondents.

AVNEESH JHINGAN, J (Oral):

The order dated 26.09.2018 passed by the Addl. Civil Judge (Sr. Division), Bawal [hereinafter referred to as 'trial Court'] closing the evidence of the petitioner/defendant [hereinafter referred to as 'petitioner'] has been assailed in this civil revision petition.

The respondents/plaintiffs [hereinafter referred to as 'respondents'] filed a suit for specific performance against the petitioner. Written statement was filed. Respondents lead their evidence and cross-examination of the witnesses was done. The petitioner examined one witness and thereafter, inspite of

opportunities provided, he failed to furnish any further evidence.

Learned trial Court, vide impugned order, closed the evidence of the petitioner. Aggrieved of the order, the present civil revision petition has been filed.

Learned counsel for the petitioner states that father of the petitioner expired on 25.09.2018 and for this reason, evidence could not be concluded on 26.09.2018. He prays that one effective opportunity may be provided to adduce the entire evidence.

Learned counsel for the respondents vehemently defends the order of the trial Court and rebuts the contentions raised by learned counsel for the petitioner. He argues that eleven opportunities were availed by the petitioner and yet he failed to conclude his evidence. He further submits that in any case, if contention of the petitioner is accepted, right to rebut the evidence produced, should be granted to the respondents.

It is not disputed that there was a death in the family of the petitioner one day prior when the case was fixed for evidence.

Keeping in view the facts and circumstances of the case, order dated 26.09.2018, closing the evidence of the petitioner is set aside.

Let the trial Court provide one effective opportunity to the petitioner to conclude his evidence. The petitioner shall ensure presence of his witnesses at his own responsibility. Thereafter, respondents would be given an opportunity to rebut the evidence produced by the petitioner.

The civil revision petition is allowed subject to costs of Rs.10,000/- to be given to the respondents.

[AVNEESH JHINGAN]
JUDGE

November 29, 2018
pankaj baweja

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| 1. Whether speaking/ reasoned | : | Yes/ No |
| 2. Whether reportable | : | Yes/ No |