

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

CR No.2251 of 2018

Date of Decision:26.11.2019

RAM SARUP

...Petitioner

Versus

SMT. JASWINDER KAUR AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Ramesh Sharma, Advocate
for the petitioner.

Mr. Krishan M. Vohra, Advocate
for the respondents.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 23.02.2018 passed by Civil Judge (Junior Division), Panchkula (for short-the Trial Court) through which the petitioner's evidence was ordered to be closed for the reason that in spite of grant of several opportunities, he had failed to conclude his evidence.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition, are that the petitioner filed a suit seeking therein to declare compromise dated 12.09.2010 as null and void as according to the petitioner the same was forged and fabricated. Injunction to restrain the defendants from interfering in the petitioner's peaceful possession over the land detailed and described in the head note of the

plaint (for short-the suit property) was also sought.

On being put to notice, contesting respondents No.1 to 3, who were defendants No. 1 to 3 in the suit, contested the petitioner's claim. Thereafter, the Trial Court, framed issues. When in spite of grant of several opportunities the petitioner/plaintiff did not lead his entire evidence, the Trial Court, through order dated 23.02.2018, ordered closure of the petitioner's evidence. Such order of the Trial Court is under challenge in the present proceedings.

While referring to a medical report of the petitioner's wife (Annexure P-3), learned counsel for the petitioner submits that on the last two dates fixed before the Trial Court the petitioner, who is 80 years of age, could not lead his evidence as his wife had undergone bypass surgery. Learned counsel prays for the grant of one effective opportunity for the petitioner to lead his entire evidence at his own risk and responsibility.

Learned counsel for contesting respondents No. 1 to 3 submits that the Trial Court had already granted enough opportunities to the petitioner to lead his evidence and no further opportunity needs to be granted.

After considering the above submissions and in line with the principles of natural justice as also not to preclude the petitioner from raising his entire defence at the threshold of the litigation which he is facing, subject to payment of ₹10,000/- as costs, to be paid by the petitioner to the contesting respondents, the impugned order is set aside and the petitioner is granted one effective opportunity to lead his entire evidence at his own risk and responsibility.

The present petition is allowed in the above terms.

The Trial Court shall ensure that the awarded costs are transferred into respondents No.1 to 3's bank accounts.

November 26, 2019

Jyoti-IV

(DEEPAK SIBAL)
JUDGE

Whether speaking/reasoned Yes/No Whether Reportable Yes/No