

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

245

**CR No.2563 of 2018(O&M)
Date of Decision: 26.2.2019**

RAM MEHAR

.....Petitioner

Versus

BEG RAJ

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr.S.K.Yadav, Advocate
for the petitioners.

Mr.Mukesh Yadav, Advocate
for the respondent.

RAJ MOHAN SINGH, J.(Oral)

Petitioner has filed this petition challenging the order dated 4.4.2018 passed by Civil Judge (Jr.Divn.) Mahendergarh, whereby evidence of the petitioner was closed by order of the Court.

The impugned order was passed on the premise that despite availing number of adjournments by the defendant, the evidence was not adduced. Prayer to lead additional evidence was also declined. Perusal of the record would show that the case was fixed for 2.8.2017 for the evidence of the defendant, thereafter, the case was adjourned for 24.8.2017, 20.9.2017 and 23.10.2017, i.e. the date on which the last opportunity was given

to the defendant-petitioner to lead evidence. Defendant-petitioner, in his application under Section 151 CPC for leading additional evidence, has pleaded that his brother died on 17.7.2017. His father suffered a paralytic stroke on 10.6.2017 and ultimately died on 3.12.2017. Owing to the family condition, he could not conclude his evidence in time and the same was closed by order of the Court on 23.10.2017.

At the time of issuance of notice of motion on 11.5.2018, the following order was passed:-

“Learned counsel for the petitioner contends that evidence of the petitioner-defendant was closed vide order dated 23.10.2017 after granting four opportunities including last opportunity. Thereafter, petitioner filed an application for leading additional evidence and the same was also dismissed on 04.04.2018.

Learned counsel further contends that brother of the petitioner died on 17.07.2017. Father of the petitioner had a paralytic stroke on 10.06.2017 and he ultimately died on 03.12.2017. Due to aforesaid state of affair in the family, petitioner could not lead evidence in time. Petitioner seeks one opportunity to conclude his evidence subject to

payment of adequate costs.

Notice of motion for 13.07.2018.

Till the next date of hearing, passing of final order shall remain stayed.”

After hearing learned counsel for the parties, I am of the view that in view of the family circumstances of the defendant-petitioner, one opportunity is required to be given to the petitioner to conclude his evidence on his own responsibility on the date to be fixed by the trial Court after due notice to the parties.

In view of above, this revision petition is allowed and the impugned order dated 4.4.2018 is set aside, subject to payment of costs of ₹ 15,000/- to be paid to the plaintiff-respondent.

Payment of costs shall be the condition precedent for granting indulgence by the trial Court in the aforesaid context.

Petition stands disposed of accordingly.

February 26, 2019
anita

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No