

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 219

CR-4634-2017 (O&M)

Date of decision : 09.01.2019

Rupinder Bachan Singh

..... Petitioner

VERSUS

Hari Jog Bachan Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. B. S. Guliani, Advocate, for the petitioner.

Mr. Mayank Mathur, Advocate, for respondent No. 1.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 12.07.2017, passed by the Civil Judge (Junior Division), Patiala (for short, the Trial Court), through which the evidence of the petitioner/defendant was closed by order.

Learned counsel for the petitioner submits that there had been no laxity on the part of the petitioner/defendant in leading his evidence and that the petitioner had deposited the requisite diet money etc. for issuance of summons to procure the presence of his witness i.e. the concerned Clerk from the Estate Office, U.T., Chandigarh, who was sought to be produced by him alongwith the record of SCF No. 30, Sector 21, Chandigarh. The said official witness failed to appear before the Trial Court for no fault on the part of the petitioner and the Trial Court instead of adhering to the prescribed procedure to secure the presence of the witness erred in closing the petitioner's evidence.

Learned counsel for contesting respondent No. 1 submits that he has express instructions from his client to state that his client has no

objection if the petitioner is granted one effective opportunity to lead his entire evidence.

Admittedly, the only evidence remaining to be led by the petitioner/defendant is the examination of the concerned Clerk from the Estate Office, U.T., Chandigarh. To summon such official witness the petitioner had deposited the requisite diet money etc. In spite of issuance of summons the witness failed to appear before the Trial Court. No fault for the same can be attributed to the petitioner. In these circumstances it was for the Court to secure the presence of the only witness remaining to be produced by the petitioner/defendant by adopting the procedure prescribed in law which the Trial Court has failed to do and wrongly went on to order closure of the petitioner's evidence.

In view of the above, the impugned order is set aside with a direction to the Trial Court to grant to the petitioner one effective opportunity, in accordance with law, to secure the presence of his witness who is the concerned Clerk from the Estate Office, UT, Chandigarh alongwith the relevant record.

The present petition is allowed in the above terms.

09.01.2019
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No