

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 204

CR-4707-2018 (O&M)

Date of decision : 21.11.2019

Rohtash Singh

..... Petitioner

VERSUS

Santosh Devi and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. O. P. Sharma, Advocate, for the petitioner.

Mr. Rajesh Arora, Advocate, for the respondent.

DEEPAK SIBAL, J. (ORAL)

Though the present petition was instituted to challenge therein orders dated 26.05.2017 and 30.03.2018 (Annexures P/5 and P/8 respectively), passed by the Civil Judge (Junior Division), Pataudi (for short, the Trial Court), at the time of hearing of the petition, learned counsel for the petitioner submits that he restricts his challenge only to the aforesaid order dated 30.03.2018.

The only grievance raised by learned counsel for the petitioner is that respondent No. 2-Shakuntla Devi had filed an application under Section 151 CPC seeking therein permission of the Trial Court to examine her son namely Deepak Yadav on her behalf but without any decision thereupon the Trial Court has allowed examination of the aforesaid Deepak Yadav on behalf of Shakuntla Devi.

A perusal of the impugned order reveals that the above assertion made by learned counsel for the petitioner is correct.

Once an application had been filed by respondent No. 2 seeking permission of the Trial Court to examine her son in her place, such examination could have not been allowed by the Trial Court without decision on such application.

In view of the above, the impugned order is set aside and the Trial Court is directed to take a decision on the aforesaid application filed by respondent No. 2 seeking permission of the Trial Court to examine her son namely Deepak Yadav as DW-3 in her place and thereafter proceed with the petitioner's suit in accordance with law.

The present petition is allowed in the above terms.

21.11.2019

shamsher

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No

[DEEPAK SIBAL]

JUDGE