

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 206

CR-5161-2018

Date of decision : 08.05.2019

Baidhnath

..... Petitioner

VERSUS

Mukesh and others

..... Respondents

2.

CR-5597-2018

Date of decision : 08.05.2019

Baidhnath

..... Petitioner

VERSUS

Mukesh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. A. K. Yadav, Advocate, for the petitioner.

DEEPAK SIBAL, J. (ORAL)

The present order shall dispose of two petitions between the same parties being CR-5161-2018 and CR-5597-2018.

The facts, in brief, which would be required to be noticed for adjudicating upon the present petitions are that respondent No. 1 filed a suit seeking therein specific performance of agreement of sale dated 06.02.2013 pertaining to agricultural land detailed and described in the head note of his plaint. On being put to notice, the petitioner, who was defendant No. 1 in the suit, appeared before the Trial Court and contested the suit. Thereafter, the Trial Court framed the issues and respondent No. 1/plaintiff led his entire evidence. When in spite of grant of several opportunities the petitioner/defendant No. 1 did not lead his entire evidence, the Trial Court

through order dated 06.02.2018 ordered closure of his evidence. The petitioner then filed an application for grant of another opportunity to lead his evidence which was dismissed by the Trial Court on 04.07.2018. Both the aforesaid orders dated 06.02.2018 and 04.07.2018 are under challenge in the afore referred petitions.

Learned counsel for the petitioner submits that only on two dates the petitioner was unable to lead his evidence and on all other subsequent dates he had in fact led evidence by producing his witnesses. It is further submitted that the petitioner was suffering from Asthama; was a heart patient as also that he belongs to Siliguri in West Bengal and, therefore, there was some delay on his part to lead his evidence. He prays that subject to payment of reasonable costs, at his own risk, the petitioner be granted only one effective opportunity to lead his entire evidence.

After considering the afore-submissions made by learned counsel for the petitioner 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 ₹25,000/- as costs (cumulatively in both cases) to be paid by the petitioner to respondent No.1, the impugned orders are set aside and at his own risk and responsibility the petitioner is granted one effective opportunity to lead his entire evidence.

The Trial Court shall ensure that the costs ordered to be paid by the petitioner to respondent No. 1 are transferred to respondent No. 1's bank account.

Both the petitions being CR-5161-2018 and CR-5597-2018 are allowed in the above terms.

If the respondents are aggrieved by passing of the present order, they are at liberty to approach this Court by filing of an appropriate application.

08.05.2019
shamsher

[DEEPAK SIBAL]
JUDGE

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