

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

**Sr. No.223**

**CR No.5728 of 2017**

**Date of decision: 12.12.2019**

Chamkaur Singh

....Petitioner

versus

Daljit Singh and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL**

Present: Mr. Ajaivir Singh, Advocate and  
Mr. Gagandeep Singh Virk, Advocate  
for the petitioner.

None for the respondents.

\* \* \*

**DEEPAK SIBAL, J. (Oral)**

Respondent No.1, 2, 4, 5, 7, 11 to 15, 17 and 18 had been served but no one appears on their behalf. The other respondents, who remain unserved were ex parte before the Trial Court and therefore, their service is dispensed with.

The present petition has been pending before this Court for the last over two and a half years and as a result thereof, the petitioner's suit, filed by him in the year 2012, is also pending before the Trial Court.

In the afore-referred circumstances to finally adjudicate upon the instant petition, learned counsel for the petitioner has been heard.

The present petition is directed against the order dated 28.07.2017 passed by the Civil Judge (Junior Division), Ludhiana (for short – the Trial Court) ordering closer of the petitioner's evidence on the ground that in spite of grant of adequate opportunities, the petitioner had not led his entire evidence. Also under challenge is the order of the Trial Court dated

10.08.2017 through which an application filed by the petitioner to lead additional evidence has been dismissed primarily on the ground that through the aforesaid order of the Trial Court dated 28.07.2017 his evidence had been ordered to be closed.

The petitioner filed a suit seeking therein possession of land measuring 15 kanals 3 marlas detailed and described in the head note of the plaint. Permanent injunction to restrain the defendants in the suit from damaging, excavating or digging the suit property as also from transferring the possession thereof to some third party was also sought. Recovery of ₹1,70,436/- as mesne profits for alleged illegal use and occupation of the suit property by the defendants was also claimed. In spite of service of notice, the respondents, who were the defendants in the suit did not bother to appear before the Trial Court and therefore, were proceeded against ex parte. Thereafter, the Trial Court framed issues. When after grant of adequate opportunities, the petitioner did not lead his entire evidence, the Trial Court ordered closure of his evidence. The petitioner then filed an application seeking to lead additional evidence which application of his was dismissed by the Trial Court primarily on the ground that through an earlier order the Trial Court had already ordered closure of the petitioner's evidence. It is in these circumstances, the petitioner has approached this Court through the present petition.

On 25.08.2017, while issuing notice, this Court passed the following order:-

*“Learned counsel for the petitioner, at the very outset, fairly states that although the petitioner ought to have been more vigilant to conclude his entire evidence, because sufficient number of opportunities were granted*

*to him, yet in the totality of facts and circumstances of the case and also to avoid miscarriage of justice, one more opportunity deserves to be granted to the petitioner, so as to enable him to conclude his remaining evidence. He further submits that petitioner is ready to pay reasonable amount of costs for his fault in not concluding his evidence in time.*

*Subject to deposit of Rs.30,000/- as costs by the petitioner with the Punjab and Haryana High Court Advocates' Welfare Committee within a period of one week from today, let notice of motion be issued to the respondents for 09.01.2018.*

*Process dasti as well as through counsel of the respondents before the learned trial Court, in addition to ordinary process.*

*Petitioner shall also be at liberty to serve the respondents by registered AD Post.*

*In the meantime, learned trial Court is directed to adjourn the case beyond the date fixed before this Court.”*

A perusal of the afore-quoted order reveals that after acknowledging the fact that the petitioner was not very vigilant in leading his entire evidence, subject to deposit of ₹30,000/- as costs this Court issued notice in the present petition.

The awarded costs have been deposited by the petitioner.

All the respondents, who are defendants before the Trial Court, were served before the Trial Court but did not bother to appear before it. None has appeared on behalf of the respondents even in the present proceedings. Thus, they would not put to any prejudice in case, as prayed for by learned counsel for the petitioner, one more effective opportunity is granted to the petitioner to lead his entire evidence.

In the above peculiar facts and in line with the principles of natural justice as also for the reason that the petitioner may not be precluded from leading his entire evidence at the threshold of the litigation initiated by him as well as the fact that the petitioner has already deposited Rs.30,000/- as costs for not being as vigilant as he should have been while leading his evidence, the impugned orders are set aside and as prayed for, the petitioner is granted one effective opportunity to lead his entire evidence at his own risk and responsibility.

The petition is allowed in the above terms.

**(DEEPAK SIBAL)**  
**JUDGE**

**December 12, 2019**  
*Jyoti 1*

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No