

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 211

CR-6288-2018

Date of decision : 14.05.2019

Jarnail Singh

..... Petitioner

VERSUS

Gurcharan Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Parvinder Singh, Advocate, for the petitioner.

Mr. G. S. Randhawa, Advocate, for respondent No. 1.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 13.08.2018, passed by the Civil Judge (Junior Division), SAS Nagar (Mohali) (for short, the Trial Court), through which the petitioner/defendant No. 2's evidence has been closed.

A perusal of the interim orders passed by the Trial Court reveals that on 14.05.2018, 03.07.2018, 10.07.2018, 19.07.2018 and 24.07.2018 respondent No. 1/plaintiff's suit was listed before the Trial Court for leading of evidence by defendant No. 1 and on 24.07.2018 the same was adjourned to 31.07.2018 which was the first opportunity granted to the petitioner/defendant No. 2 to lead his evidence. On 31.07.2018 the petitioner did not lead his evidence and the matter was adjourned to 07.08.2018. On that date too since no evidence was led by the petitioner, while adjourning the matter to 13.08.2018 last and final opportunity was granted to him for leading his evidence. However, on 13.08.2018 also when the petitioner failed to lead any evidence, the impugned order was passed by the Trial Court ordering closure of his evidence.

Thus, the petitioner was granted three opportunities to lead his evidence. That being so, there is a factual error in the order of the Trial Court that the petitioner was granted as many as nine opportunities. Further, unrebutted medical evidence has come on record that on 31.07.2018 and 07.08.2018 the petitioner was admitted in a hospital and therefore, those two opportunities cannot be considered to be effective opportunities granted to him to lead his evidence.

In the background of the above factual position, subject to payment of ₹5,000/- as costs, to be paid by the petitioner to respondent No.1, the impugned order is set aside and the petitioner is granted two effective opportunities to lead his entire evidence.

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

The present petition is allowed in the above terms.

14.05.2019
shamsher

[DEEPAK SIBAL]
JUDGE

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