

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 117

CR-2780-2019

Date of decision : 01.05.2019

Rajesh

..... Petitioner

VERSUS

Ram Narain

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Nonish Kumar, Advocate, for the petitioner.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 08.04.2019, passed by the Civil Judge (Junior Division), Karnal (for short, the Trial Court), directing closure of the petitioner's evidence.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that the respondent filed a suit against the petitioner/defendant seeking therein recovery of ₹8,91,717/- alongwith interest. On being put to notice, the petitioner, who was the defendant in the suit, appeared before the Trial Court and refuted the case set up by the respondent. Thereafter the Trial Court framed the issues on which the respondent/plaintiff led his entire evidence. Thereafter, even after availing five effective opportunities the petitioner did not lead his entire evidence resulting in the passing of the order impugned in the present proceedings.

Learned counsel for the petitioner submits that the petitioner is a poor farmer who was facing a false recovery suit filed against him by his commission agent; due to certain miscommunication between his client and his counsel appearing before the Trial Court, he could not make himself

available for his cross examination on the date when the impugned order was passed and that subject to payment of reasonable costs, at his own risk and responsibility, the petitioner be granted only one opportunity to be cross examined.

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 recovery suit filed against him, subject to payment of ₹20,000/- as costs, to be paid by the petitioner to the respondent, the impugned order is set aside and the petitioner is granted one effective opportunity to be cross examined as also 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 the respondent's bank account.

The petition is allowed in the above terms.

If the respondent is aggrieved by passing of the present order, he is at liberty to approach this Court by filing of an appropriate application.

01.05.2019
shamsher

[DEEPAK SIBAL]
JUDGE

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