

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

Sr. No.107

CR-3096-2019

Date of decision: 10.05.2019

Kailash Kumari

....Petitioner

versus

Sunita Arora and another

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Jai Bhagwan, Advocate and
Mr. Sandeep Kumar Rana, Advocate
for the petitioner.

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DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 20.03.2019 passed by the Civil Judge (Junior Division) Faridabad (for short -the Trial Court) ordering the closer of the petitioner/plaintiff's evidence for having not lead the same in spite of grant of several opportunities.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that the petitioner filed a suit seeking therein an injunction to restrain the respondents from entering into the peaceful possession of the property detailed and described by the petitioner in her plaint (for short – the suit property). On being put to notice, the respondents, who were the defendants in the suit, appeared before the Trial Court and contested the petitioner's suit. After the Trial Court had framed the issues, the petitioner was granted several opportunities to lead her evidence but when within the aforesaid granted opportunities, she did

not lead her entire evidence, the Trial Court ordered closer of her evidence through the order which is under challenge in the present proceedings.

Learned counsel for the petitioner submits that the petitioner is a senior citizen and is suffering from several ailments. For this reason as also due to some miscommunication between herself and the counsel appearing for her before the Trial Court, she could not lead the entire evidence in time. He submits that subject to payment of reasonable costs to be assessed by this Court, the petitioner at her own risk and responsibility be granted one opportunity to lead her entire evidence.

A perusal of the interim orders passed by the Trial Court produced in Court by learned counsel for the petitioner shows that on several occasions either the petitioner was not available for her examination or the matter was adjourned on request made on her behalf. However, in the peculiar facts of the present case where the petitioner is a senior citizen and said to be suffering from several ailments as also in line with the principles of natural justice and for the reason that the petitioner may not be precluded from raising her evidence at the threshold of the litigation that she has preferred, subject to payment of ₹30,000/- as costs, to be paid by the petitioner to the respondents, the impugned order is set aside and at her own risk and responsibility, the petitioner is granted one effective opportunity to lead her entire evidence.

The Trial Court shall ensure that the awarded costs ordered to be paid by the petitioner to the respondents are deposited equally to their respective bank accounts.

The petition is 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.

May 10, 2019
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(DEEPAK SIBAL)
JUDGE

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