

115

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

CR No. 6178 of 2019

Date of Decision: 27.09.2019

Gurmit Singh

-Petitioner

Vs

Gurpal Singh and others

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Anish Setia, Advocate,
for the petitioner.

RAJ MOHAN SINGH, J. (ORAL)

Perusal of the impugned order would show that the cost(s) was not paid.

The cost(s) was imposed vide order dated 24.04.2019. The same was not paid on the adjourned date i.e. 27.05.2019 and further cost(s) of Rs.500/- was imposed.

Till passing of impugned order, amount of the cost(s) was not paid and the Court ultimately closed the evidence of the plaintiff by order of the Court after noticing that the plaintiff had already availed six effective opportunities to conclude his evidence.

In **Shri Anand Parkash Vs. Shri Bharat Bhushan**

Rai and another, 1982(1) RCR (Rent) 1 (Full Bench), it was

held that in the event of non-payment of costs on the adjourned

date, it is mandatory on the part of the Court to disallow the prosecution of suit or defence as the case may be. Though the award of costs to the aggrieved party is discretion of the Court in terms of Section 35-B CPC, but once that discretion is exercised and the cost(s) is imposed and the same is not complied with by the defaulting party, then it shall become mandatory on the part of the Court to disallow further prosecution of the suit or the defence as the case may be.

The aforesaid view has also been reiterated in **Manohar Singh Vs. Shri D.S. Sharma and others, 2007 (26) RCR (Civil) 798 (Delhi)**. The only course open to the Court is to disallow further prosecution of the case or defence as the case may be if the amount of cost(s) is not deposited by the defaulting party on the next date. Even this Court in **CR No.3586 of 2018** titled **Gurmeet Singh Vs. Daljit Singh** decided on 25.05.2018 and **CR No.3926 of 2019** titled **Jeet Singh vs Gurmeet Singh and others** decided on 27.08.2019 has followed the dictum as laid down in **Shri Anand Parkash's case (supra)**.

In view of above, this revision petition is accordingly, dismissed.

27.09.2019
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No