

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 109

CR-7523-2019

Date of decision : 27.11.2019

Preet Bhandari and another

..... Petitioners

VERSUS

Jiwan Modi and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Namit Gautam, Advocate, for the petitioners.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 29.10.2019, passed by the Civil Judge (Junior Division), Ludhiana (for short, the Trial Court), ordering closure of the petitioners' evidence as according to the Trial Court in spite of grant of several opportunities the petitioners had not led their entire evidence.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that respondent No. 1 filed an application under Order 39 Rule 2-A CPC for initiating contempt proceedings against the petitioners and others for willful and intentional disobedience of the order dated 18.12.2009, passed by the Trial Court granting *status quo* in Civil Suit “*Jiwan Modi vs Kanti Parkash @ Kanti Parshad and others*”. In pursuance of notice issued in such application the petitioners appeared before the Trial Court and contested respondent No. 1's claim. Thereafter the Trial Court framed issues and respondent No. 1 led his evidence after which defendants, other than the petitioners, led their entire evidence. Petitioner No. 1 then examined himself in chief and on several dates was partly cross-examined but since on 27.09.2019, 05.10.2019 and 29.10.2019 he failed to put in appearance and neither did petitioner No. 2 lead any evidence, the Trial Court through order dated 29.10.2019 ordered closure of the petitioners' evidence. Such order of the Trial Court is under challenge through the present proceedings.

in-chief, on several occasions, petitioner No. 1 had appeared before the Trial Court and had also been partly cross examined but he could not appear before the Trial Court on the last three dates due to certain family constraints. So far as petitioner No. 2 is concerned, learned counsel submits that he also could not lead his evidence as he was suffering from some skin ailments. Learned counsel for the petitioners prays for the grant of one opportunity for both the petitioners to lead their entire evidence.

It is true that for the last three dates before the Trial Court neither did petitioner No. 1 make himself available for his cross examination nor did he pay the awarded costs. The interim orders passed by the Trial Court further reveal that petitioner No. 2 has also not led his evidence for which he was granted adequate opportunities and that the awarded costs were also not paid by petitioner No. 2.

After considering the afore pleas raised on behalf of the petitioners; the fact that the petitioners are facing quasi criminal proceedings; in line with the principles of natural justice as also not to preclude them from raising their entire defence at the threshold of the contempt proceedings launched against them, subject to payment of ₹25,000/- as costs, to be paid by each of the petitioners to respondent No. 1, the impugned order is set aside and they are cumulatively granted one last opportunity to lead their entire evidence which they may do so on the date to be fixed by the Trial Court for the said purpose.

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

The petition is allowed in the above terms.

If respondent No. 1 is aggrieved by passing of the present order, he is at liberty to approach this Court by filing of an appropriate application.

27.11.2019

shamsher

[DEEPAK SIBAL]
JUDGE

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