

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-7545-2019
Date of decision: 03.12.2019

Jatinder Kumar Jha

.....**Petitioner**

versus

Mohan Dai Oswal Cancer Hospital & another

.....**Respondents**

CORAM: Hon'ble Mr. Justice Deepak Sibal

Present: Mr.Naveen Bawa, Advocate for the petitioner

Deepak Sibal, J. (Oral)

The present petition is directed against the order dated 9.9.2019 passed by Civil Judge (Junior Division), Ludhiana (for short, the Trial Court) ordering closure of the petitioner's evidence.

The petitioner had filed a suit seeking therein damages from the respondents on the ground that negligence on their part had made him permanently disabled. The respondents/defendants contested the petitioner's claim. The Trial Court framed issues, after which when in spite of grant of three opportunities, the petitioner did not lead his entire evidence, the Trial Court ordered closure of his evidence through the order under challenge in the present proceedings.

Learned counsel for the petitioner submits that to prove his case the petitioner had sought to examine Dr.Vijay Goni, who is an Orthopedic Surgeon in PGIMER, Chandigarh as according to him it was Dr.Vijay Goni who had conducted surgery upon him. Later, it was revealed

that Dr. Goni had not conducted any surgery on the petitioner. In this process, the petitioner availed of three opportunities granted to him by the Trial Court.

Learned counsel for the petitioner further submits that due to the fact that the petitioner had become physically handicapped, he could not remember the exact name of the doctor who had operated upon him. The petitioner has now come to know that it was Dr.Gaganpreet who in fact had conducted surgery upon him. He therefore, prayed that he be granted two effective opportunities to lead his entire evidence, including summoning of Dr.Gaganpreet of PGIMER, Chandigarh as his witness.

The petitioner, a young man of 25 years, alleges to have been permanently disabled at the hands of the respondents for which through his suit he claimed damages from them. It is very much possible that in his state of mind he was not clear with regards the name of the doctor who operated upon him in PGIMER, Chandigarh which he has now ascertained.

In the peculiar facts of the case as also in the line with the principles of natural justice and for the reason that the petitioner may not be precluded from raising his entire evidence at the threshold of the suit, which he has filed, the impugned order is set aside and the petitioner is granted two effective opportunities to produce his entire evidence. If an application is filed by the petitioner to summon Dr.Gaganpreet working at PGIMER, Chandigarh to be produced as his witness, the Trial Court shall make every endeavour to summon him at the earliest or examine him through Video Conferencing.

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.

03.12.2019
gk

(Deepak Sibal)
Judge

Whether speaking/ reasoned:	Yes/No
Whether Reportable:	Yes/No