

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

**CR No. 1136 of 2020 (O&M)
Date of Decision: 17.02.2020**

Gurpreet Singh

.... Petitioner

Versus

Harjit Singh @ Bitti and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Deepak Aggarwal, Advocate
for the petitioner.

RAJBIR SEHRAWAT, J. (ORAL)

The present petition has been filed challenging the order dated 17.01.2020 passed by trial Court, whereby evidence of the petitioner/plaintiff has been closed by the order of the Court.

The brief facts involved in the case are that the plaintiff was injured by the defendants/respondents. On that account, FIR No. 74 dated 17.10.2013 was recorded under Sections 307/342/148/149 IPC at Police Station Phul. After complete trial, all the respondents stand convicted under Sections 307/342/148/149 IPC. However, since the petitioner has suffered injuries and that had forced the petitioner to incur expenses for the treatment of the same, therefore, the petitioner has filed a separate suit for claiming compensation on account of injuries and the treatment thereof. In that suit, the petitioner was not able to complete the evidence in time, therefore, vide impugned order, the trial Court has closed the evidence of the plaintiff by order of the Court.

It is contended by the learned counsel for the petitioner that the petitioner had submitted the list of witnesses and had deposited the

necessary expenses for summoning the said witnesses, as far back as, on

10.03.2017. Thereafter, although summons were issued to the witnesses, however, the witnesses did not appear because they could not be served. The reports of service pointed out that the said witnesses, being government employees, had been transferred at some other place. However, now the petitioner has found the location of all the witnesses. The petitioner will ensure, at his own risk and responsibility, that all the witnesses are present on one date of hearing. Therefore, it is prayed that the petitioner be granted one effective opportunity to complete his evidence.

A bare perusal of the order shows that the issues in the case were framed on 07.12.2016. Thereafter, during the past three years, the plaintiff has availed 39 effective opportunities to complete his evidence. However, the petitioner has not been able to conclude the same. Therefore, on the face of it, this Court does not find any irregularity with the order passed by the trial Court, as such.

However, it can also not be ignored that the witnesses, sought to be summoned by the petitioner, are the official witnesses. The petitioner had even furnished the necessary expenses for summoning those witnesses. Beyond that, the petitioner had no control over the said witnesses to force them to come to the Court. The case of the petitioner is also such that the examination of these witnesses could be of significant importance for substantiating the claim of the petitioner. Hence, it would not be unjustified if, in the interest of justice, the petitioner is granted one effective opportunity to produce all the witnesses, sought to be produced by him, on one date, however, by putting him to appropriate financial burden.

In view of the above, the impugned order passed by the Court below is modified and it is directed that the petitioner be granted one more effective opportunity to produce all the said witnesses on one date, at petitioner's own risk and responsibility, however, subject to payment of Rs. 15,000/- as cost. The cost is directed to be deposited with Poor Patients Welfare Fund, PGIMER, Chandigarh within a period of two weeks.

It is also clarified that the evidence of the petitioner shall be entertained by the trial Court only if the petitioner produces before that Court, the receipt of having deposited the cost, as mentioned above.

(RAJBIR SEHRAWAT)
JUDGE

17.02.2020
Maninder

Whether speaking/reasoned : Yes
Whether reportable : No