

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

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**CR No. 1200 of 2020
Date of decision : 13.3.2020**

Baba Dudhadhari Harigiri Gaushala

.....Petitioner

Vs.

Yajunder Singh Kadian and others

.....Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Sansar Kundu, Advocate, for the petitioner

Rajbir Sehrawat, J. (Oral)

This is a petition under Article 227 of the Constitution of India seeking setting aside of the order dated 23.1.2020, passed by the Court below, whereby the evidence of the petitioner has been closed by order of the Court, and it is further prayed that one opportunity be granted to the petitioner to lead his entire evidence.

It is submitted by learned counsel for the petitioner that originally the petitioner was not a party. After the death of Swami Krishnanand Giri Chela Swami Ganeshanand Giri, the petitioner as well as another person were appointed as legal representatives of the above said Baba. Earlier the other legal representatives had moved applications seeking permission to file written statement and for re-framing of the correct issues, as well as, seeking permission to lead secondary evidence. The case was being, repeatedly, adjourned for consideration on the said application. The petitioner was granted only one opportunity to complete his entire evidence. On the said date, unfortunately, the petitioner had fallen ill and was advised bed rest by the doctor. Therefore, he could not appear before the Court so as to lead his

evidence. The absence of the petitioner from the Court was for the reasons beyond his control. Hence, it is submitted that the Court has wrongly passed the order closing evidence of the petitioner and that the petitioner deserves to be granted opportunity to complete his evidence.

Having heard learned counsel for the petitioner, this Court finds that the Court below has recorded that despite having availed 5 effective opportunities, the petitioner had not completed his evidence. Therefore, the order of the Court below, per se, does not suffer from any irregularity or perversity. However, it is also evident from the record that on several dates, the case was being adjourned for consideration on the applications moved for permission to file written statement, to re-frame issues and to lead secondary evidence; by the other legal representatives of the original respondents. This creates a probability of the petitioner being under a wrong impression that he would get sufficient opportunities to lead his evidence after the applications, moved by the other legal representatives, are decided. Even if the impression gathered by the petitioner was unsustainable, the fact remains that after the applications were decided by the Court below, only one opportunity was granted to the respondents to lead their evidence. On the second date, the evidence has been closed by the order of the Court. The closure of the evidence of the petitioner on account of not completing his evidence, though under a mis-conception, is likely to demolish the case of the petitioner. Therefore, it would be in the interest of justice, if the petitioner is granted one more opportunity to complete his evidence, however, by putting him to an appropriate financial burden.

In view of the above, the present petition is disposed of with a

direction to the Court below to grant one effective opportunity to the petitioner to complete his entire evidence, but subject to payment of Rs.10,000/-as costs, which is ordered to be deposited with the Institute of Blinds, Sector 26, Chandigarh, within a period of 2 weeks from today.

However, it is further clarified that the petitioner shall be granted opportunity to lead the evidence only after he produces before the Court below the receipt of the costs having been deposited, as ordered above.

(RAJBIR SEHRAWAT)
JUDGE

13.3.2020

Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No