

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

114)

CR no.6154 of 2019 (O&M)

Date of Decision: 12.02.2020

Shish Ram

...Petitioner

Versus

Hari Ram and another

....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- None.

Amol Rattan Singh, J. (Oral)

On 29.01.2020, the following order had been passed by this court:-

“CM No. 23750-CII-2019

This application has been filed seeking to place on record orders passed by the trial court between 11.05.2018 to 05.07.2019, in terms of the order of this court dated 27.09.2019.

The order passed by the trial court framing issues, though is not one of the orders annexed with this application, learned counsel has produced a copy of that order (dated 07.04.2018), in court today, and consequently, the Registry is directed to scan the copy of the said order (taken on record as Mark-A) and to annex it along with the the orders already annexed with this application as part of Annexure P-3 (collectively).

The application is allowed.

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It is seen from a perusal of the aforesaid orders that the petitioner was given 07 opportunities to lead evidence in the form of his witnesses, of which he availed only one on 24.08.2018, by producing 05 witnesses, whose examination-in-chief was recorded by the trial court.

Thereafter, those witnesses never turned up to get themselves cross-examined and consequently, there would actually be no reason to interfere in the impugned order by which the evidence of the petitioner (plaintiff) was closed by the court.

However, since he approached this court within two months

of the said order having been passed and at that stage no defence witnesses were examined but with the matter however adjourned for learned counsel to place on record the interim orders passed by the trial court (as had been taken on record today), this petition could actually have been disposed of by imposing costs on the petitioner and by granting him one opportunity to get his witnesses cross-examined.

However, in the meanwhile, as is obvious from a perusal of the orders passed by the trial court on 17.01.2020, two witnesses have already been examined by the defendants, though with their cross-examination deferred on the request of learned counsel for the petitioner (plaintiff), with the next date of hearing before the trial court for that purpose being 07.02.2020.

In view of the above, the suit being one filed by the petitioner-plaintiff any order to be passed in his favour now can only be so passed after hearing the respondent-defendant no. 2 (respondent-defendant no. 1 already having proceeded against *ex parte* by the trial court), and consequently, subject to the petitioner depositing pre-litigation costs of Rs. 20,000/- to be paid to respondent-defendant no. 2 upon it putting in appearance before this court, let notice of motion be issued to respondent no. 2, returnable on 12.02.2020.

Process dasti also, with the trial court is directed to adjourn the matter to a date beyond that given by this court, till the next date of hearing only.

It is made clear that if the pre-litigation costs are not deposited or respondent no. 2 is not served even through its counsel appearing before the trial court, who is seen to be Sh. Parveen Kumar Gupta, Advocate, the interim order shall stand automatically vacated.

To be shown in the urgent motion list for that purpose.”

As per the report of the Registry no receipt of deposit of pre-litigation cost of Rs.20,000/- has been submitted by the petitioner, nor in fact were notices issued due to non-filing of the process fee.

That being so, this petition is dismissed.

12.02.2020
vcgarg

(AMOL RATTAN SINGH)
JUDGE

Whether reasoned/speaking: Yes
Whether reportable: No