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

CR-6754-2019 (O&M)
Date of decision: 29.07.2022

Davinder Kumar

... Petitioner

Vs.

Sohan Singh and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Gurcharan Dass, Advocate for
Mr. V.S. Vashisht, Advocate
for the petitioner.

None for the respondents.

ARVIND SINGH SANGWAN, J. (ORAL)

Challenge in this revision petition is to the order dated 02.08.2019 passed by the Civil Judge (Jr. Divn.), Ludhiana in Civil Suit No.3189 dated 21.07.2015 titled as Davinder Kumar Vs. Sohan Singh and others, vide which evidence of the petitioner-plaintiff was closed by order.

The observations made by the trial Court in the impugned order read as under: -

“Today the case has been fixed for plaintiff evidence but again no plaintiff witness is present today. The ld. counsel for the plaintiff has failed to lead evidence despite availing several opportunities.

As such, I find no justification for adjourning the case further for plaintiff evidence, so the evidence of the plaintiff is closed by order. Now to come up on 18.09.2019 for defendant evidence.”

Brief facts of the case are that the petitioner-plaintiff filed a suit for permanent injunction restraining respondents No.1 & 2 from demolishing the side walls of the property of the plaintiff or interfering in the peaceful possession.

Learned counsel for the petitioner has submitted that though the petitioner-plaintiff has already filed the affidavit, however, due to unavoidable circumstances, his witnesses were not present and the trial Court adopted very harsh view and closed the plaintiff's evidence. It is further submitted that in case, one effective opportunity is granted, the petitioner-plaintiff will lead his evidence.

Despite service, there is no representation on behalf of the respondents.

In view of the above, this petition is allowed and the impugned order dated 02.08.2019 is set aside.

The trial Court is directed to afford one effective opportunity to the petitioner-plaintiff to produce and examine his three witnesses.

Effective opportunity would mean a day, when the Court is held and the witnesses of the petitioner-plaintiff are present and statement is recorded.

This will, however, be subject to the condition that the petitioner-plaintiff will pay a costs of Rs.5,000/- to respondents No.1 & 2-contesting defendants.

29.07.2022
vishnu

[ARVIND SINGH SANGWAN]
JUDGE

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