

On 16.08.2018, written statement was filed by the petitioner and issues were also framed on the said date. Thereafter, respondent led the evidence and closed the same on 04.11.2022. Then the case was adjourned for evidence of the petitioner. The petitioner-defendant was partly examined on 31.05.2023 and his cross-examination was deferred. Thereafter, on 3-4 dates, no defence witness was present. Therefore, on 23.08.2023, since several opportunities had already been given to the petitioner for recording evidence and he had failed to conclude the same, the learned Trial Court, vide impugned order, closed evidence of the petitioner by court order.

3. Learned counsel for the petitioner has argued that ten effective opportunities were granted to the respondent and he took 02 years and 02 months for producing his evidence, apart from the fact that only one witness was examined. He has further prayed that only one opportunity be granted to the petitioner as he wants to examine only one witness of alleged pronote. The same could not be examined on 23.08.2023 because of the fact that the counsel had noted down the wrong date of hearing. He has relied upon the photocopies of brief and case diary maintained by learned counsel, on which the dates are written by counsel. The same have been annexed with the present petition as Annexures P-4 and P-5 respectively. Learned counsel for the petitioner further undertakes not to take any more adjournments before the learned Trial Court.

4. I have heard the submissions made by learned counsel for the petitioner and also perused the case file.

5. Although there is some inaction on the part of the petitioner, but

the Courts are required to do complete justice to the parties. Procedure is hand-maid to the administration of justice and is meant for advancement of justice. If one opportunity is granted to the petitioner to examine his witness, then no prejudice would be caused to the other party since it shall get an opportunity to cross-examine the said witness, which would help to bring true picture on the file. The other party can also be compensated with costs.

6. In order to avoid financial burden on the respondent and further to avoid unnecessary delay in disposal of the case, service to respondent is dispensed with.

7. In view of the aforesaid, the present revision petition is allowed and the impugned order dated 23.08.2023(Annexure P-3), passed by learned Trial Court, whereby evidence of the petitioner has been closed by court order, is set aside and the learned Trial Court is directed to grant only one opportunity to the petitioner to produce his witness at his own responsibility and tender documents, if any, subject to payment of Rs.5,000/- as costs, to be paid by the petitioner to the respondent, on the date to be fixed by the learned Trial Court. The cross-examination of the witness produced by the petitioner shall also be conducted on the same day. However, if for any reason, the learned Trial Court is unable to record the cross-examination on that day, it shall positively be recorded on the next working day. It is further directed that no further adjournment shall be granted to the petitioner for evidence.

9. Pending applications, if any, shall stand disposed of along with this judgment.

September 05, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.