



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(116)

CR-6499-2024
Date of Decision:-08.11.2024

VIKAS RAO

... Petitioner

Versus

MANAS CHAKRABARTY

... Respondent

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CORAM: HON'BLE MR. JUSTICE ALOK JAIN

Present:- Ms. Rashi Shahrawat, Advocate
for the petitioner.

ALOK JAIN, J. (Oral)

1. Present petition has been filed by the petitioner *inter alia* praying for quashing of order dated 13.09.2024 (Annexure P-3), whereby evidence of the defendant was closed by learned Civil Judge (Junior Division) Gurugram.
2. Learned counsel for the petitioner submits that the plaintiff-respondent was granted nineteen opportunities to lead his evidence after framing of issues and defendant was given only six opportunities to lead the evidence and his defence was struck off vide impugned order dated 13.09.2024.
3. Further the counsel for the petitioner submits that if one last opportunity be granted to the petitioner (defendant in the suit) respondent shall conclude the evidence on that date itself as the petitioner only wishes



to file his affidavit in his defence and shall remain available for cross-examination on the very day. In addition to the above, the counsel for the petitioner also raises plea that beside the cost imposed by the learned Court below, petitioner is ready to bear an additional cost if any imposed by this Court in lieu of granting such relief.

4. Heard learned counsel for the petitioner at length.

5. From the perusal of the file there is nothing which demonstrate that the plaintiff was given nineteen such opportunities. Be that as it may, the petitioner has also failed in depositing the cost of ₹500/- coupled with the fact that defendant had already availed several effective opportunities including last opportunity, consequently the defence has been struck off, but however vide the impugned order, only evidence of defendant was closed and the matter was fixed for 30.09.2024 for rebuttal evidence. Thereafter, the matter before the trial Court is fixed for 22.11.2024.

6. However, keeping in view that the right of the litigant to defend should not be taken away lightly, furthermore, the only evidence which the petitioner wishes to bring on record is an evidence by way of an affidavit and undertaking that he shall be available for the cross-examination on the very same date. Further the issuance of notice to the respondent shall only procrastinate the trial, whereas, the respondent can be compensated with cost. Considering the facts and assertions so made, this Court deems it appropriate to dispose of the petition *in limine* with the following directions:-



- i. The order dated 13.09.2024 (Annexure P-3), is set aside, except the direction to pay the cost of ₹500/-, on the next date of hearing.
- ii. The learned trial Court is directed to grant one more effective opportunity after fix a date for concluding entire evidence and the matter shall be proceeded in accordance with law.
- iii. The petitioner shall file his evidence in defence by way of affidavit, two days before the date fixed with an advance copy to the counsel for the plaintiff and shall remain present in the Court for cross-examination on the same day.
- iv. In addition to the above, the petitioner is also burdened with a of ₹10,000/- as compensation to the respondent-plaintiff to be paid before the learned Court below accepts the evidence.

7. In view of the above, present petition stands disposed of accordingly.

08.11.2024
Gaurav Sorot

(ALOK JAIN)
JUDGE

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