

(2011) 12 SHI CK 0321
In the High Court Of Himachal Pradesh
Case No : CMPMO No. 374 of 2011

Shri Karamveer Sharma

APPELLANT

Vs

Smt. Vijay Ran and Others

RESPONDENT

Date of Decision : 14-12-2011

Acts Referred:

Citation : (2011) 12 SHI CK 0321

Hon'ble Judges : Surjit Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Surjit Singh, J.—Petitioner has filed a Civil Suit, in the Court of Civil Judge, Shimla. After the framing of the issues, opportunities were granted to the petitioner to lead evidence. Finally, on 30th November, 2010, last opportunity was granted to the petitioner and the matter fixed for 17th March, 2011, on which date petitioner produced two witnesses. He wanted to examine one more witness, who was not present on that date, but the trial Court closed his evidence. Aggrieved by this order of closure of evidence, petitioner has approached this Court, by means of the present petition, with the prayer that the impugned order may be set aside and the petitioner be granted atleast one more opportunity to examine the third witness.

2. I have heard learned counsel for the parties and gone through the record.

3. Learned counsel for the petitioner submits that dasti summons had been obtained, in respect of the third witness, but it could not be served upon the witness. Summons has been placed on record as Annexure P-2. Report of the Process Server, on the back side of the summons, shows that the summons was shown to the Superintendent of Fire Office, who read it and told that the correct name of the office was not written and so he did not accept the same. Learned trial Court, while passing the impugned order, did not take notice of this summons and the report. However, the fact remains that the petitioner had been

afforded last opportunity to produce his evidence on 17th March, 2011, though the order, granting last opportunity, did not say that the evidence was to be produced at self responsibility.

4. In view of the abovestated position, present petition is allowed, subject to payment of costs of ` 1,000/-, impugned order is set aside and it is ordered that one more opportunity shall be afforded to the petitioner to examine the third witness, who is from Fire Office, on his taking steps, for summoning the said witness, within one week from today. Date for appearance of the witness shall be given by the trial Court.

5. Petition stands disposed of. Pending application also stands disposed of. Parties are directed to appear before the trial Court on