

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRITS No. 3870 of 2004

LALCHAND
V/S
ADDL.CIVIL JUDGE(J.D.)NO.2 & ANR.

Mr. CS KOTWANI, for the appellant / petitioner

Mr. SL JAIN (CAVEATOR), for the respondent

Date of Order : 28.9.2004

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the parties.

By the impugned order dated 5.9.2003, the learned trial court, has declined to reopen the petitioner-defendant's evidence. True it is that the petitioner has been granted three opportunities to lead evidence, and true it also is that, the application for reopening of evidence has been filed belatedly. However, having perused the plaint and the nature of controversy involved, I think it appropriate in the interest of justice to grant one more opportunity to the petitioner to lead evidence, subject to payment of cost.

Accordingly, the writ petition is allowed in the manner that on the next of hearing fixed in the trial court i.e. 25.10.2004, if petitioner pays cost of Rs.2,000/- and produces all his witnesses in the trial court, on that day, the learned trial court shall record the statements of witnesses, so produces. It is made clear here that in case cost is not paid and/or witnesses are not produced, no further opportunity will be given to the petitioner, and the impugned order will automatically revive. Likewise, if for any reason of the court, the trial court is not able to record the statements, it will fix the shortest possible next date for recording the evidence, for which date, witnesses will be bound-down. The trial court is also directed to decide

the suit most expeditiously.

(N P GUPTA),J.

/Srawat/