

IN THE HIGH COURT OF JUDICATURE FOR
RAJASTHAN BENCH AT JAIPUR

O R D E R

SB CIVIL WRIT PETITION NO. 6265/07.

SHAKIR @ SHABBIR @ SHABIR – PETITIONER.
VS
NAGAR PALIKA & OTHERS. -RESPONDENTS.

DATE OF ORDER : 31ST JANUARY, 2012.

PRESENT
HON'BLE MS. JUSTICE BELA M. TRIVEDI

Mr. Vishwajeet Mantri for the petitioner.
Mr. Anil Tiwari for
Mr. K.N. Gupta for the respondents.

BY THE COURT :

1. Heard the learned counsel for the parties.
2. The present petitioner (original plaintiff) has filed the present petition challenging the order dated 28.5.07 passed by the trial court in Civil Suit No. 116/02, whereby the trial court had closed the evidence of the plaintiff.
3. It has been submitted by the learned counsel for the petitioner that the petitioner-plaintiff could not remain present due to illness, however, the learned counsel for the plaintiff was present before the trial court and

had requested the court to adjourn the matter. According to the learned counsel for the petitioner, the petitioner-plaintiff would suffer an irreparable loss if he is not permitted to lead his evidence.

4. The petition has been objected by the learned counsel for the respondents by submitting that the petitioner-plaintiff did not remain present for the cross-examination before the trial court though sufficient opportunity was granted.
5. Having regard to the submissions made by the learned counsel for the parties, it appears that the petitioner-plaintiff has filed the suit for permanent injunction against the respondents-defendants. After the examination-in-chief of the plaintiff recorded by the court, the matter was adjourned from time to time for cross-examination, however the plaintiff did not remain present and, therefore, the court vide the impugned order closed the cross-examination of the plaintiff,

virtually closing the evidence of the plaintiff.

6. Having regard to the facts and circumstances of the case and in the interest of justice, the impugned order dated 28.5.07 passed by the trial court is set aside and the petition is allowed on the condition that the petitioner-plaintiff shall deposit the cost of Rs. 2,000/- before the trial court within a period of four weeks from today. On such deposit being made, the respondents-defendants shall be at liberty to withdraw the same.
7. In that view of the matter, the petition is allowed. The petitioner-plaintiff shall remain present before the trial court as and when directed by the trial court for his cross-examination by the defendants.

(BELA M. TRIVEDI) J.

MRG.

All corrections made in the judgment/order have been incorporated in the judgment/order being emailed.

M.R. Gidwani
PS-cum-JW