

CR-2520-2015 (O&M)

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CR-2520-2015 (O&M).
Decided on: April 10, 2015.**

Mahender and another

..... Petitioners

Versus

Sukhvir and others

..... Respondents

*** * ***

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Mr.B.S.Tewatia, Advocate,
for the petitioners.**

M.M.S. BEDI, J (ORAL).

This is defendants' revision petition against the order dated 27.2.2015 passed by Civil Judge (Jr. Divn.) Palwal which reads as follows: -

*“Present Mr.Deep Chand Sharma, Counsel , for
plaintiffs.*

Mr.P.S.Punia, Counsel, for defendants.

No DW is present. It was last opportunity granted to the defendant to conclude the entire evidence. No further adjournment for this purpose is justified. Hence, evidence of the plaintiff (wrongly typed instead of defendant) is hereby closed by Court order. Now, to come up on 7.3.2015 for rebuttal evidence, if any, otherwise for arguments.”

Counsel for the petitioners submits that on account of grandmother of the defendants being not well on 27.2.2015, they

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were not able to produce any evidence. It has been submitted that even defendants have not been given an opportunity to appear as their own witnesses.

I have heard the learned counsel for the petitioners and gone through the facts and circumstances of the case. The plaintiffs-respondents have filed a suit for possession claiming themselves to be owners being successors-in-interest of Randhir Singh regarding 5 marlas of land mentioned in the heading of the plaint. The stand of the defendants-petitioners appear to be that a similar suit earlier filed by father of the plaintiffs-respondents had been dismissed. A copy of the judgment passed in earlier suit titled Raghbir Vs Budhi and others has been placed on record as Annexure P2. Taking into consideration the above said circumstances, I am of the opinion that denial of an opportunity to the defendants-petitioners to produce their evidence would cause serious prejudice to the defendants and the trial Court will be deprived of essential material in the shape of evidence and would not be able to impart justice to the parties on the basis of factual and legal position.

Counsel for the petitioners submits that in case two effective opportunities are granted to the defendants to conclude the evidence, the defendants will produce their entire evidence at own responsibility and would tender relevant documents which are necessary for effectively deciding the controversy in dispute.

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In order to avoid unnecessary expenditure and wastage of time, I deem it appropriate to dispose of this petition in limine simultaneously compensating the opposite party for the unnecessary harassment.

The petition is allowed. Order dated 27.2.2015 is set aside. The defendants-petitioners are granted two opportunities to appear as their own witnesses at their own responsibility and to tender documents which are relevant and per se admissible for adjudication of the suit subject to payment of costs. The petitioners will appear before the trial Court on the date fixed. The trial Court shall give two effective opportunities to the defendants-petitioners to produce their entire evidence at their own responsibility subject to payment of costs of Rs.5,000/- to the plaintiffs-respondents. It is made clear that in case costs is not offered or the defendants-petitioners fail to avail the opportunities by appearing as witnesses, this petition will be deemed to have been dismissed. It is further directed that the trial Court shall give two effective opportunities to the defendants-petitioners within a time period of one month. In case the order is not acceptable to the plaintiffs-respondents, it will be open to the plaintiffs-respondents to approach this Court for review of the order.

April 10, 2015.
rka

(M.M.S. BEDI)
JUDGE