

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

C.M. No. 1064-CII of 2015 in/and
C.R. No. 3383 of 2014
Date of decision: 16.01.2015

Hira Lal and others

...Petitioner(s)

Versus

Dayanand and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. R.D. Yadav, Advocate,
for the petitioners.

G.S.SANDHAWALIA, J. (Oral)

C.M. No. 1064-CII of 2015

Application has been filed for preponing the date of hearing of the main revision petition from 26.03.2015 on the ground that the case is fixed on 22.01.2015 before the trial Court.

Application is allowed, in view of the averments made in the application duly supported by affidavit.

The main case is pre-poned to today itself and taken up for hearing.

C.R. No. 3383 of 2014

Challenge in the present revision petition filed under Article 227 of the Constitution of India is to the order dated 07.03.2014 whereby, the evidence of the petitioners-plaintiffs was ordered to be closed by order by Civil Judge (Jr. Divn.), Rewari. The Court noticed that 5 effective opportunities had been granted to lead evidence but the petitioners failed to

examine any witness. Accordingly, the case is fixed for evidence of the defendants.

The reasoning given by the trial Court on the face of order does not seem to be suffering from any illegality as such since admittedly, the case was adjourned from 17.10.2013 to 16.12.2013 and thereafter to 15.01.2014. The plaintiffs did not examine any witness on 06.02.2014. The Court granted last opportunity also and adjourned the case to 07.03.2014 when the order to close evidence of the plaintiff was passed.

However, counsel for the petitioners submits that defendant no. 13 had already expired when the suit had been filed and application for bringing on record his legal representatives had been filed which was rejected on 12.08.2013 and in such circumstances, the evidence had not been led. C.R. No. 6117 of 2013 had been filed against the said order. It was in such circumstances the petitioners were under the wrong impression that evidence was only to be led after the decision in the said revision petition. It is further submitted that the suit is for declaration and permanent injunction regarding mutation bearing No. 6051 and, therefore, the share of the parties in land is involved and by virtue of the impugned order, the rights of the petitioners would be adversely affected.

In such circumstances, keeping in view the basic principle that the rules of procedure are hand-maids of justice and a party should be given an effective chance to defend his case, specially where serious civil consequences are involved, this Court is of the opinion that the other side can be adequately compensated by payment of costs.

In view of the above, this Court is of the opinion that the present petition is liable to be allowed. No notice is being issued to the

respondents as it will unnecessarily entail unnecessary expenses and delay the matter. Even if they put in appearance, the result would remain the same. However, it is open to the respondents to file an appropriate application for recalling of the order in case there is any concealment of fact.

Accordingly, the present revision petition is allowed and the order dated 07.03.2014 is set aside. The petitioners shall be entitled to lead evidence and the Court will grant 3 effective opportunities to the petitioners for the said purpose, subject to payment of ₹5,000/- as costs, to be paid to the defendants for the delay caused in the litigation.

16.01.2015
shivani

(G.S. SANDHAWALIA)
JUDGE