

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

CR No.4404 of 2015 (O&M)

Date of decision: 15.7.2015

M/s Ganpati Balaji Enterprises and another

..... Petitioners

Versus

Smt. Prabha Sehgal and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. P.S.Jammu, Advocate for the petitioner.

RAJESH BINDAL, J

Challenge in the present petition is to the order dated 5.5.2015 passed by the learned court below, whereby the evidence of the petitioners/defendants was closed by order of the court and further the order dated 8.7.2015, vide which application for recalling the same was also dismissed.

Learned counsel for the petitioners submitted that in a suit for possession filed by the respondents/plaintiffs, the case was fixed for the first time for the evidence of the petitioners on 23.1.2015. The petitioners had been leading their evidence. On 29.4.2015, defendant-Ashwani Mehta filed his affidavit in evidence. The case was adjourned for his cross-examination on the request of learned counsel for the plaintiffs. On the next date of hearing i.e. on 5.5.2015, defendant-Ashwani Mehta was not well. Adjournment was sought, however, the same was declined and the evidence of the petitioners was closed by the order of the court. Even the application filed for recalling that order was also dismissed. The submission is that defendant-Ashwani Mehta could not put in appearance on the date fixed on account of unavoidable circumstances otherwise, object was not to delay the proceedings. The plaintiffs had taken more than one year to conclude their

evidence. Learned counsel for the petitioners further submitted that the case is fixed for today for rebuttal evidence, if any, and arguments. He further submitted that in case, one opportunity is granted, the petitioners will conclude their entire evidence on the date to be fixed.

After hearing learned counsel for the petitioners and considering the fact that the evidence of the petitioners started on 23.1.2015 and the reason for non-appearance of defendant-Ashwani Mehta for his cross-examination on 5.5.2015 is stated to be his illness, in my opinion, the petitioners deserve to be granted one opportunity to conclude their entire evidence on the date to be fixed by the learned court below. The same shall be subject to payment of ₹ 10,000/- as cost to be paid by the petitioners to respondent No.1 by way of demand draft. Payment of costs shall be pre-condition. The impugned order passed by the learned court below is modified accordingly. If aggrieved, the respondents/plaintiffs shall have right to file application for recalling the aforesaid order.

The revision petition is disposed of in the manner indicated above.

(RAJESH BINDAL)
JUDGE

15.7.2015

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