

In the High Court of Punjab and Haryana at Chandigarh

**Civil Revision No. 4435 of 2015
Date of Decision: 16.07.2015.**

Gurpreet Singh

.....Petitioner

Versus

Binder Kaur and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. S.K.Bawa, Advocate
for the petitioner.

SABINA, J.

Petitioner has filed this petition under Article 227 of Constitution of India challenging the order dated 28.4.2015 whereby evidence of the petitioner was closed.

Learned counsel for the petitioner has submitted that, although, the petitioner has examined five witnesses but he only wants to examine the attesting witness qua the Will dated 10.12.2011 registered on 02.02.2012. Petitioner be granted one opportunity to enable him to examine the said witness.

Respondents No. 1 and 2 have filed suit for declaration. A perusal of the impugned order dated 28.4.2015 reveals that vide order dated 19.1.2015, the case was adjourned for defence evidence to 6.2.2015 subject to payment of ₹ 500/- as costs. On 6.2.2015, the case was adjourned to 2.3.2015 for defence evidence subject to payment of ₹ 800/- as costs. A perusal of the interim order dated 2.3.2015 reveals that no reference has been made qua

the costs imposed vide order dated 6.2.2015. A perusal of interim order dated 30.3.2015 also reveals that there is no mention in the said order qua imposition of costs. However, as per order dated 22.4.2015, it has been observed that costs not paid, although, the previous order dated 30.3.2015 does not specify the imposition of costs. Hence, in the facts and circumstances of the present case, it would be just and expedient to grant one opportunity to the petitioner to enable him to conclude his evidence. It is the case of the petitioner that he only wants to examine the attesting witness with regard to Will dated 10.12.2011.

Accordingly, this petition is allowed. Impugned order dated 28.4.2015 is set aside. Trial Court is directed to grant one effective opportunity to the petitioner to enable him to conclude his evidence at his own risk and responsibility subject to payment of ₹ 2500/- as costs. Costs be deposited with the Legal Services Authority. Thereafter, the Trial Court shall proceed further with the case, in accordance with law.

**(SABINA)
JUDGE**

July 16, 2015
Gurpreet