

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

(109)

CR No.4937 of 2015

Decided on: August 06, 2015.

Jasmal Singh and another

.... Petitioners

Versus

Darshan Singh and others

..... Respondents

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

Present: Mr. Ramandeep Singh Pandher, Advocate,
for the petitioners.

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

In a suit of separate possession by way of partition, the evidence of the plaintiffs-petitioners has been closed by impugned order.

Learned counsel for the petitioners submits that on 17.07.2015, when the evidence was closed, the plaintiff-petitioner No.2 was present in the Court of Judicial Magistrate Ist Class, Khanna. It has been informed that no witness could be examined by the plaintiffs and that great prejudice will be caused to the plaintiffs-petitioners in case fair opportunity is not granted to the petitioners to produce their evidence.

Learned counsel for the petitioners submits that he has got instructions to state in case one opportunity is granted to the plaintiffs-petitioners to produce evidence, the entire evidence will be produced at own responsibility.

I have heard learned counsel for the petitioners and I am of the opinion that the dispute is amongst the family members regarding partition

of the property. It will be expedient, in the interest of justice, to enable the petitioners to produce evidence subject to payment of costs.

This petition is disposed of in limine setting aside the impugned order dated 17.07.2015 with a direction that the trial Court shall fix a date for enabling the plaintiffs-petitioners to produce their entire evidence. The plaintiffs-petitioners will produce their entire evidence at their own responsibility on said date subject to payment of costs of Rs.10,000/- to the respondents. It is made clear that in case the plaintiffs-petitioners fail to pay the costs or to produce any evidence on the date fixed by the trial Court, this petition will be deemed to have been dismissed.

It is not out of place to observe here that this petition has been disposed of in limine in order to save the respondents from the litigation expenses and the interest of expeditious disposal of the case but in case the order is not acceptable to the defendants-respondents, it will be open to the defendants-respondents to approach this Court for review of the order.

The plaintiffs-petitioners are directed to appear before the trial Court on the date already fixed i.e. 28.08.2015.

(M.M.S. BEDI)
JUDGE

August 06, 2015
harsha