

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

(256)

CR No.778 of 2015

Decided on: July 16, 2015.

Nirpal Singh

.... Petitioner

Versus

Gurmeet Kaur and others

.... Respondents

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

Present: Mr. G.S. Poonia, Sr. Advocate, with
Ms. Harveen Kaur, Advocate,
for the petitioner.

Mr. Satinder Khanna, Advocate,
for respondents No. 1 to 3.

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

Vide impugned order, the evidence of the plaintiff-petitioner has been closed by order on account of non-payment of the cost and non-production of the witnesses despite repeated opportunities.

It is contended by learned counsel for the petitioner that the petitioner being abroad was not able to comply with the directions of the Court to pay cost and produce witnesses.

The dispute appears to be amongst the family members.

The petitioner has filed a suit for declaration claiming rights in the property on the basis of a Will left by his father Kuldip Singh. Defendants-respondents are daughters of Kuldip Singh. The dispute amongst the family members pertaining to the property of their father deserves to be settled by determining their rights by permitting them to contest the suit. No doubt, the plaintiff-petitioner has been adopting the casual approach but a fair opportunity deserves to be granted to the petitioner to produce the evidence.

Learned counsel for the respondents has vehemently contended that on account of apparent casual approach and repeated opportunities having been granted, the order closing the evidence should be upheld. He places reliance on *Sulakhan Singh Vs. Jaspal Singh, 2003 (3) RCR (Civil) 680* and *M/s Shiv Cotex Vs. Tirgun Auto Plast P. Ltd and others, 2011 (4) RCR (Civil) 807.*

There is no dispute regarding the legal preposition. No straight jacket formula can however be adopted that in all cases of casual approach on part of the litigation, he should be deprived of an opportunity to produce the evidence by adopting stringent methods especially when the title is to be determined on the basis of the evidence.

While striking a balance between the rights of both the parties, I deem it appropriate to set aside the impugned order Annexure P-1 and to grant three opportunities to the petitioner to produce his entire evidence subject to payment of costs of Rs.30,000/-. Rs.15,000/- already obtained will be adjustable against the said costs. The revision petition is allowed accordingly.

Parties are directed to appear before the trial Court on the next date of hearing. On said date of hearing, the trial Court shall fix three dates for production of evidence by the petitioner within a period of three months to enable the petitioner to produce his entire evidence. The trial Court shall give three effective opportunities to the petitioner to produce entire evidence subject to payment of costs of Rs.30,000/-. In case the costs is not paid or the evidence is not completed within a period of three months, it will be open to the trial Court to pass any appropriate order.

(M.M.S. BEDI)
JUDGE

July 16, 2015

harsha