

CR-1036-2016

1

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CR-1036-2016

Date of decision : 11.02.2016

Gram Panchayat of village Tarkhan Mazara, Tehsil Phillaur, District Jalandhar.

... Petitioner

Versus

Mohan Singh and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Rajinder Kumar Singla, Advocate
for the petitioner.

REKHA MITTAL. J.(ORAL)

The present petition has been directed against order dated 30.11.2015 (Annexure P3) passed by the Civil Judge (Junior Division), Phiallaur whereby the evidence of the petitioner (Gram Panchayat of village Tarkhan Mazara) has been closed by order of the Court.

Counsel for the petitioner contends that after framing of issues on 22.09.2014, the case remained pending for hearing arguments on an application under Order 39 Rule 1 & 2 of the Code of Civil Procedure (in short 'CPC') for quite some time. Balwinder Kaur, Sarpanch PW1 tendered into evidence her affidavit on 13.07.2015 but her cross-examination was deferred. On 11.08.2015, Des Raj Malak PW2, Sulakhan Singh Panch PW3, Malkit Singh PW4 tendered into evidence their

affidavits by way of examination-in-chief but their cross-examination was deferred. On 31.08.2015, cross-examination of Balwinder Kaur PW1 was completed and cross-examination of Malkit Singh PW4 was concluded on 14.09.2015. Thereafter, on a number of occasions since 28.09.2015 no effective proceedings were conducted as either the Presiding Officer was on leave or once the case was fixed on Sunday. It is further submitted that even though the petitioner has availed a number of opportunities for concluding its evidence but a serious prejudice is likely to be caused to the petitioner in case cross-examination of Des Raj Malak PW2 and Sulakhan Singh PW3 who have already tendered into evidence their examination-in-chief by way of affidavit, is not allowed to be completed. It is prayed by way of mercy plea that one effective opportunity may be allowed to the petitioner for tendering PWs Des Raj Malak and Sulakhan Singh Panch in the witness box for conducting of their cross-examination so that their statements can be read into evidence.

Keeping in view the submissions made by counsel for the petitioner, borne out from the zimni orders produced in the petition and copies shown to the Court, in my considered opinion, it is expedient in the interest of justice that the petitioner is allowed one opportunity for completion of cross-examination of Des Raj Malak PW2 and Sulakhan Singh Panch PW3 subject to costs of ₹5000/- to be deposited with the Legal Services Authority, Phillaur.

Before parting with this order, it is pertinent to point out that

the petition has been disposed of without notice to the respondents in order to save them from unnecessary inconvenience and expenses. However, the respondents would be at liberty to file an appropriate application in case they have any grievance to express.

(REKHA MITTAL)
JUDGE

February 11, 2016.
Davinder Kumar