

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 17 of 2016 (O&M)

Date of Decision : 07.01.2016

Chitar Singh and another

.....Petitioners

Versus

Smt. Hukam Kaur and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. N.D. Achint, Advocate
for the petitioners.

Mr. Aditya Jain, Advocate
for respondent no. 1-caveator.

Surinder Gupta, J. (Oral)

Heard.

This is revision petition against order dated 22.12.2015 passed by Civil Judge (Junior Division), Gurgaon whereby the evidence of defendants was closed.

Vide order dated 19.11.2015 passed by this Court in Civil Revision No. 7710 of 2015, the revision-petitioners were allowed one opportunity to examine the witness, namely; Irfan. It appears that the trial Court fixed the date for statement of Irfan as 22.12.2015 on which date it was presented before the Court that Irfan had been taken away by the plaintiffs to avoid recording of his statement in Court. However, Court closed the evidence in view of the order passed in Civil Revision No. 7710 of 2015 allowing only one opportunity to the revision-petitioners to lead evidence.

Learned counsel for the petitioner has argued that Irfan is very important witness in this case and the plaintiffs were obstructing his examination. Irfan has also given his affidavit (Annexure P-3) to this effect that on 22.12.2015 he was taken away by some persons of Smt. Hukam Kaur, who obstructed him from

appearing in the Court. They also switched off his mobile. The lapse as such was not on the part of revision-petitioners but because of the circumstances beyond his control. He seeks one more opportunity to produce the aforesaid witness subject to payment of heavy cost.

Learned counsel for respondent no. 1-caveator has argued that the revision-petitioners have already been allowed enough opportunities. He has also produced a chart showing that 16 opportunities have already been allowed to the revision-petitioners to conclude the evidence but they have failed to produce the evidence. Their evidence has earlier been closed twice and on both the occasions they filed revision petitions which were allowed. Despite granting opportunities they had not been able to conclude the evidence and have again come up with false plea that Irfan was obstructed from appearing in the Court on 22.12.2015.

I have examined the respective contentions of learned counsel for the parties.

Keeping in view the submission of learned counsel for the revision-petitioner that only Irfan remains to be examined in this case and he is marginal witness of the Will, but without commenting on merits on the plea as to why he could not appear on 22.12.2015 for his statement, the instant revision petition is allowed subject to deposit of ₹15,000/- as costs with the Mediation and Conciliation Centre of this Court. The parties will now appear before the Court concerned on 11.01.2016, the date already fixed. One more date will be given to the revision petitioners to examine Irfan subject to production of receipt of deposit of the amount of costs. It is also observed that in the event of any circumstance brought to the notice of the Court below showing reason beyond

control of petitioners in examining the witness on date given, the Court will consider the same on merit irrespective of grant of one opportunity to petitioners vide this order to examine Irfan as DW.

January 07, 2016
jk

(SURINDER GUPTA)
JUDGE