

CR-4073-2015

1

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CR-4073-2015

Date of decision : 05.02.2016

Jagat Singh and others

... Petitioners

Versus

Ishwar Singh and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr.Bhupender Singh, Advocate
for the petitioners.

Mr. Rajesh Bhardwaj, Advocate
for respondents No.5 to 7.

REKHA MITTAL. J.(ORAL)

The present petition has been directed against the order dated 27.05.2015 whereby the evidence of the petitioners/plaintiffs has been closed by order.

Counsel for the petitioners contends that though the petitioners did not furnish the list of witnesses or deposit diet money for summoning witnesses within a period of seven days from the date of framing of issues but later they moved an application for deposit of diet money for two witnesses namely Dr.Surekha Dabla and Dr. Pushpender N. Renjen. The Court not only permitted the petitioners to deposit diet money of the witnesses but even issued process for service. The witnesses were duly served for 20.04.2015 but they failed to appear in the Court and the

petitioners cannot be blamed for failure of the witnesses to appear in the Court despite service. It is further submitted that in various zimni orders recorded by the trial Court, it has been mentioned that witnesses of the petitioners were present but they were either not examined or cross-examined. Counsel has prayed that in case the petitioners are allowed one opportunity to produce the evidence, they would ensure presence of Dr.Surekha Dabla and Dr. Pushpender N. Renjen before the trial Court, on the date fixed.

Counsel for the contesting respondents has supported the impugned order with the submissions that the petitioners have already availed a large number of opportunities for adducing evidence but failed to conclude and the trial is being prolonged with an intent to cause harassment to the contesting respondents, who are bonafide purchaser of the suit property from defendant No.1, father of the plaintiffs.

I have heard counsel for the parties, perused the records particularly the zimni orders reproduced in the petition as well the order impugned.

There is no dispute about the fact that the petitioners submitted an application for summoning two doctors through process of the Court and the same was allowed. The process was issued for service of witnesses but there was a report received on the summons that Dr. Surekha Dabla was on leave and Dr. Pushpender N. Renjen sent a request on the pretext that he would not be available on the date fixed. Perusal of

the zimni orders would further reveal that on many occasions witnesses of the petitioners were present but they were not examined for one reason or the other. In the given situation, it is expedient in the interest of justice that the petitioners are afforded one effective opportunity to examine Dr.Surekha Dabla and Dr. Pushpender N. Renjen but subject to the condition that the petitioners would ensure presence of the witnesses along with relevant record, if any, on the date to be fixed by the trial Court.

In view of what has been discussed hereinabove, the petition is allowed in the aforesaid terms.

(REKHA MITTAL)
JUDGE

February 05, 2016.
Davinder Kumar