

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

**CR No. 4530 of 2016(O&M)
Date of decision : 08.09.2016**

M/s Lekhi Flour Mill

... Petitioner

VS

M/s Gupta Roller Flour Mills and another

... Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present : Mr. Nitesh Singhi, Advocate,
 for the petitioner.

Mr. Sandeep Khunger, Advocate,
 for the respondents.

RAJ MOHAN SINGH, J. (Oral)

Learned counsel for the petitioner has assailed the orders dated 15.05.2015 and 02.07.2016 passed by Civil Judge (Senior Division), Moga, whereby evidence of the defendant was closed by order of the Court and application for recalling the order dated 15.05.2015 was also dismissed.

Perusal of the record reveals that as many as eight effective opportunities were granted to the defendants to conclude their evidence including last opportunity and the case was fixed for 15.05.2015. Rakesh Kumar, DW-1 was partly cross-examined earlier i.e. on 29.04.2015 but did not come present on 15.05.2015 and the Court proceeded to close the evidence of the defendants by order.

Learned counsel for the petitioner contends that even though eight effective opportunities were granted to the defendants

to conclude their evidence but in view of sudden demise of uncle of the defendants namely Ram Pratap, defendants along with Jayant Lekhi and Rakesh Lekhi had to return back when they were on their way to the Court. As a result of which, they could not appear in the Court.

Be that as it may, Learned counsel for the respondents has shown a fair gesture to say that one opportunity be granted to the defendants-petitioner for leading their evidence on their own responsibility subject to payment of adequate costs.

In view of aforesaid, this revision petition is disposed of by setting aside the impugned orders dated 15.05.2015 and 02.07.2016 passed by Civil Judge (Senior Division) Moga. One opportunity is granted to the defendants to lead their evidence on their own responsibility, subject to payment of cost of ₹25,000/- to be paid to the plaintiffs-respondent. Payment of cost would be a condition precedent for allowing the aforesaid indulgence by the Trial Judge.

(RAJ MOHAN SINGH)
JUDGE

08.09.2016

sumit

Whether speaking/reasoned

Yes / No

Whether reportable

Yes / No