

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

**Civil Revision No.5801 of 2016
Date of Order: 07.09.2016**

Ved Parkash (deceased) through his LRs.

..Petitioners

Versus

Chhailu Ram

..Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

**Present: Mr. Vijay Singh Kajla, Advocate,
for the petitioners.**

RAJ MOHAN SINGH, J. (Oral)

This revision petition has been filed by the legal representatives of deceased Ved Parkash, who was the original defendant in the suit. The plaintiff evidence was closed in affirmative after tendering some documents on 28.03.2016. Thereafter, the case was adjourned for evidence of the defendant at his own responsibility for 07.04.2016. On the adjourned date, no defendant witness was present and the case was adjourned to 25.04.2016 and then to 18.05.2016. On 18.05.2016, again no defendant witness was present and the case was adjourned to 02.07.2016 for the same purpose for want of defendant's evidence. Last opportunity was granted on 18.05.2016, to bring the defendant's evidence at his own responsibility. Ultimately, on 02.07.2016, adjournment was allowed at the instance of the defendant and the case was adjourned to 02.08.2016, for evidence of the defendant at his own responsibility.

Last opportunity was granted, failing which it was ordered that the defendant's evidence would be deemed to be closed by the Court

order. Unfortunately, before the adjourned date, the defendant died on 31.07.2016, i.e. three days prior to the date fixed. Entire family was in shock. On 02.08.2016, the trial court closed the evidence of the defendant despite the prayer made for adjournment of the case in view of death of the defendant.

Though, four earlier opportunities were granted including the last opportunity on 18.05.2016 and 02.07.2016, but keeping in view the unfortunate death of defendant on 31.07.2016, an indulgence should have been given by the trial court to the legal representatives of the deceased-defendant to examine witnesses in their defence, subject to some adequate cost.

In view of the nature of the order, which this Court proposes to pass, there is no necessity to issue any notice to the respondent as that may result in wastage of time and money of the respondent.

In view of the peculiar facts and circumstances of the case, I am of the considered opinion that one more last opportunity is required to be given to the legal representatives of the defendant to conclude their evidence at their own responsibility, subject to payment of costs of Rs.10,000/-, to be paid to the plaintiff-respondent. Ordered accordingly. The payment of costs shall be the condition precedent for giving such an indulgence by the trial court.

September 07, 2016
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(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No