

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

CR No. 8913 of 2015(O&M)

Date of decision :12.01.2016

Sudesh Garg

..... Applicant-Petitioner.

Versus

Mahinder Garg

.....Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.Parminder Singh, Advocate
for the applicant-petitioner.

DARSHAN SINGH, J. (Oral)

CM No. 489-CII of 2016

This application has been filed for placing on record
the abstract zimini order Annexure P-5.

Heard.

For the reasons mentioned in the application, the
application stands allowed and the abstract zimini order
Annexure P-5 is taken on record.

CR No. 8913 of 2015

The present civil revision petition has been
preferred under Article 227 of the Constitution of India for
setting aside the order dated 16.07.2015 passed by the
learned Civil Judge (Jr. Division), Karnal, whereby the
evidence of the petitioner was closed and the order dated
20.11.2015, whereby his application for additional evidence
has been dismissed.

2. Learned counsel for the petitioner contended that the petitioner was not granted the sufficient opportunities to adduce her evidence. Even, she herself could not appear in the witness box. He contended that the learned trial Court has wrongly closed her evidence, which has resulted in serious prejudice to the rights of the petitioner. Even, her application for additional evidence has been dismissed. He contended that the petitioner is entitled for further opportunity to lead the evidence.

3. I have duly considered the aforesaid contentions.

4. The petitioner has placed on record Annexure P-5 along with CM No. 489-CII of 2016, which shows that the petitioner was granted four effective opportunities by the learned trial Court before closing her evidence vide impugned order dated 16.07.2015. Even petitioner herself has not stepped into the witness box to depose in favour of her case.

In Case **M/s Shiv Cotex Vs. Tirgun Auto Plast P. Ltd. And others 2011(4) R.C.R (Civil) 807**, the Hon'ble Apex Court has held that where the plaintiff did not produce the evidence despite three adjournments, there was no illegality in dismissal of his suit. In the instant case, the petitioner was granted four effective opportunities, but in spite of that no evidence at all was produced. So, the no fault can be found with the impugned order dated 16.07.2015 closing the evidence of the petitioner.

5. The application filed by the petitioner for additional evidence has also been rightly dismissed by the learned trial Court. After the closure of her evidence by the learned trial Court, the petitioner moved an application to summon five witnesses in her evidence. No reason was assigned as to why these witnesses were not examined at the time of her evidence and what new facts had come up which necessitated the production of said additional evidence. Infact, the said application was only to overcome the order passed by the learned trial Court closing her evidence. Thus, the order dated 20.11.2015 dismissing the application of the petitioner for additional evidence also does not suffer from any illegality.

6. Consequently, the present petition has no merits and the same is hereby dismissed.

12.01.2016

S.khan

**(DARSHAN SINGH)
JUDGE**