

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

CR No. 981 of 2016

Date of decision :06.04.2016

Baldev Singh

..... Petitioner

Versus

Harbel Singh and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.P.S.Brar, Advocate
for the petitioner.

Mr. L.S.Sidhu, Advocate
for the respondents

DARSHAN SINGH, J. (Oral)

The present revision petition has been preferred against the order dated 04.01.2016, vide which the evidence of the plaintiff-petitioner has been closed by order by the learned Civil Judge (Jr. Division), Moga and the subsequent order dated 19.01.2016, vide which the affidavits placed on record by the plaintiffs have been discarded.

2. Learned counsel for the petitioner contended that the petitioner-plaintiffs could not produced the evidence due to the communication gap between them and their counsel.

The injunction application was pending. Their counsel asked that the evidence will start after the decision of the injunction

application. Due to this reason, their evidence has been closed by the learned trial Court by order. He pleaded that only one opportunity may be granted to the plaintiffs to produce their evidence, otherwise they will suffer serious prejudice towards their rights involved in the suit.

3. Mr. L.S.Sidhu, Advocate, learned counsel for the respondents contended that the impugned order dated 01.01.2016 shows that no evidence was produced despite last opportunity. So, the petitioner-plaintiffs are not entitled for any further opportunity.

4. I have duly considered the aforesaid contentions.

5. The present suit has been filed by the plaintiff-petitioners for declaration to the effect that they are owner in possession of the suit property as well as the mandatory injunction for issuance of direction to correct the revenue record. They have also challenged certain mutations. They have also challenged the order passed by Assistant Collector Ist Grade, Moga and Mutation No. 5407. Thus, certainly, the valuable rights of the petitioner-plaintiffs are involved in the present suit. The petitioner-plaintiffs have pleaded that their counsel told them that evidence will start after the decision of the application for injunction, which was pending. Thus, it appears that due to this communication gap, the petitioner-plaintiffs could not produce their evidence. The interest of justice requires that rights of the parties should be decided on

merits, rather than on technicalities. Moreover, learned counsel for the petitioner has stated at bar that the petitioner-plaintiffs shall produce their evidence on one date at their own responsibility.

6. Thus, in the interest of justice, the present revision petition is hereby allowed and the petitioner-plaintiffs are granted one opportunity to produce their entire evidence at their own responsibility on the date to be fixed by the learned trial Court subject to Rs. 5,000/- as costs.

06.04.2016

S.khan

(DARSHAN SINGH)
JUDGE