

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

114

CR No.1557 of 2016 (O & M)
Date of Decision:13.11.2017

Ramanjit Dass and another

...Petitioners

Versus

Murti Bhagwan Sri Chand Ji and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vipin Mahajan, Advocate
for the petitioners.

Mr. T.N. Sarup, Advocate
for the respondents.

ANIL KSHETARPAL, J.(Oral)

Defendants-petitioners are in revision petition against orders dated 17.08.2015 and 20.01.2016. It is not disputed before me that the defendants started to lead their evidence on 03.08.2015.

Learned counsel for the petitioners has brought to my notice that during the period of 2 months and 5 days, defendants-petitioners examined 8 witnesses. Learned Court vide order dated 17.10.2015 closed the evidence of the defendants on the ground that sufficient effective opportunities have been granted to the defendants except cross-examination of the witnesses, who have already given affidavits. In that very order, it was noticed that the defendants have filed an application under Section 45 of the Evidence Act, which was to be considered. However, later on vide order dated 20.01.2016, the Court dismissed the application only on the ground that the evidence of the defendants have been closed by order and the Court cannot review on its own order.

property and the defendants have only been given 2 months and 5 days to lead their entire evidence, this Court finds that the opportunity granted to the defendants was wholly insufficient. Defendants-petitioners are setting up a Will dated 16.07.1992. It is admitted position on the record that the attesting witnesses are not available.

Taking into consideration the overall facts available on the file, this Court is of the opinion that the order dated 17.10.2015 deserves to be set aside.

Therefore, the order dated 17.10.2015 as well as 20.01.2016 are set aside. The Court on the next date of hearing would re-decide the application under Section 45 of the Evidence Act after considering all aspects of the case.

Revision petition is allowed.

Defendants-petitioners would be given two effective opportunities to lead their entire evidence and the trial Court shall make sincere endeavor to conclude the trial within a period of 4 months from the date of receipt of certified copy of this order.

13.11.2017
sheetal

(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes
Whether Reportable : No