

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

Sr. No.125

Civil Revision No.3991 of 2017
DECIDED ON: May 31, 2017

RAMESH CHANDER SHARMA AND OTHERS

..PETITIONERS

VERSUS

ADARSH MOHAN SHARMA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Vivek Khatri, Advocate,
for the petitioners.

JASPAL SINGH, J. (ORAL)

Through the instant civil revision petition preferred under Article 227 of the Constitution of India, petitioners have sought the setting aside of order dated May 03, 2017 (Annexure P-6) passed by learned Civil Judge (Jr. Divn.) Panipat, whereby an application filed by the petitioners/defendants No.1 to 3 seeking permission to adduce additional evidence has been declined.

2. The contention of the learned counsel for the petitioners is that due to some mis-communication in between the petitioners and their counsel Mr. Jasvinder Singh, Advocate, the evidence on their behalf was closed by their counsel on March 16, 2017 and a statement to this effect was

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also made by him in the court. However, in fact, it was on account of a bona fide mistake on the part of the petitioners/defendant No.1 to 3 as well as their counsel. Petitioner No.1/defendant No.1 is hotly contesting the suit and has taken a specific preliminary objection to the effect that Sh. Ram Lal Sharma (deceased), his father had gifted specific portion measuring 72 ft. x 27 ft. being half portion of plot No.307-R, Model Town, Panipat vide registered gift deed bearing Vasika No.630 dated April 10, 1963. Actual possession of the subject matter of the aforesaid gift deed was also handed over by the executant to him. Since then, he is in continuous possession thereof. Moreover, in the prayer clause also, petitioner No.1/defendant No.1 has submitted that he has no objection for partition of the house except the above referred portion, which is exclusively own and possess by him. The aforesaid fact depicts the clear intention of petitioner No.1/defendant No.1 that he is a contesting party. Thus, his examination as a witness in the suit in support of his claim is necessary. Otherwise, it would be condemned unheard. Though, an ample opportunity has already been afforded to the petitioners-defendants No.1 to 3 to adduce and conclude their evidence and evidence on their behalf was also closed by their counsel by making specific statement. Yet, this court is of the considered view that ends of justice would meet in case, petitioner No.1/defendant No.1 is allowed to appear in the witness box as his own witness in support of his claim. His examination would certainly throw some light and would be helpful to the court for the determination of the matter in controversy in an effective and judicious manner. Thus, without expressing any opinion with regard to the legality of the impugned order dated May 03, 2017, instant petition is

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disposed of with the direction to the trial court to afford one opportunity to petitioner No.1/defendant No.1-Ram Chander Sharma to appear in the witness as his own witness and then to decide the matter in accordance with law.

May 31, 2017
Ankur

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No