

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

CR No.425 of 2017.

Date of Decision: 23.01.2017.

Balwinder Kaur and another

....Petitioners.

VERSUS

Amar Nath (since deceased) through L.Rs. and another

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Chandeeep Singh, Advocate for the petitioners.

SNEH PRASHAR, J.

The petitioners are aggrieved of the order dated 13.12.2016 passed by learned Additional Civil Judge (Senior Division), Mohali vide which their evidence was closed by court order.

The submissions made by Mr. Chandeeep Singh, learned counsel for the petitioners have been considered.

It is submitted by learned counsel for the petitioners that all effective steps were being taken by the petitioners for examining his witnesses. On the relevant date i.e. 13.12.2016 one witness namely Ravinder Singh, Clerk of the Office of Sub Registrar, U.T. Chandigarh was present. On that date, due to some unavoidable personal circumstances counsel for the petitioners could not appear and an adjournment was sought on his behalf, but learned trial Court discharged the witness present and

closed the evidence of the petitioners by order.

Learned counsel contends that some material ocular and documentary evidence is yet to be led by the petitioners and in case they are not allowed to be produced the petitioners will suffer irreparable loss.

Perusal of the proceeding/orders of learned trial Court, annexed with the petition indicate that on 27.05.2015 two witnesses of the petitioners were present and they tendered in evidence their examination in chief by way of their affidavits. On request of counsel for the respondents their cross-examination was deferred. Thereafter, the case was repeatedly adjourned for disposal of different applications filed by the parties. On 14.09.2016 cross-examination of PW1 was recorded and cross-examination of PW2 Balwinder Kaur was partly recorded. Subsequent to that as the petitioners had summoned a Clerk of Sub Registrar, U.T. Chandigarh and he did not appear despite service on 01.11.2016, he was ordered to be summoned through bailable warrants. On 13.12.2016 the said Clerk was present but due to non availability of counsel for the petitioners, his statement could not be recorded and discharging him learned trial Court closed the evidence of the petitioners.

No doubt, the petitioners had taken some unnecessary dates for adducing their evidence, but it was not judicious on the part of learned trial Court to have closed their evidence by order when an official witness summoned by them was present that too in response to bailable warrants issued against him. Proceedings in a civil case including recording of evidence of a party should not be culled in haste.

It shall unnecessarily delay the proceedings in case notice is given to the respondents. Considering the aforesaid facts and circumstances

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and finding that absence of evidence in support of the pleas raised will

certainly prejudice the case of the petitioners, the impugned order is set aside and the instant petition is allowed. Only one effective opportunity is given to the petitioners to produce their entire evidence subject to payment of Rs.3000/- as costs which shall be deposited with the Legal Aid Authority. The entire ocular as well as documentary evidence will be produced by them on the date fixed by learned trial Court.

(SNEH PRASHAR)
JUDGE

23.01.2017.
jitender sharma

Whether speaking/ reasoned : **Yes**

Whether Reportable : **No**