

In the High Court of Punjab and Haryana at Chandigarh

CR-5583 of 2017

Date of Decision: 22.8.2017

Laxmi and another

---Petitioners

versus

Rajjo Devi

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Amit Goyal, Advocate
for the petitioners

Rekha Mittal, J.

The present petition directs challenge against order dated 31.7.2017 whereby evidence of the petitioners/defendants has been closed by court order and the case has been fixed for rebuttal evidence, if any, and final arguments.

Counsel for the petitioners would submit that evidence of the petitioners was closed by Court order on 2.11.2016 and the said order was challenged by way of Civil Revision No. 8460 of 2016 decided on 30.5.2017 whereby the petitioners were afforded one effective opportunity to adduce and conclude their evidence. It is further argued that as Laxmi-petitioner No. 1 was unwell, she could not cause appearance before the Court on 31.7.2017. It is further submitted that a serious prejudice shall be caused to the petitioners in case Laxmi is not allowed to examine herself to counter case of the respondent/plaintiff and substantiate pleadings raised in the written statement. It is prayed that the petitioners may be allowed one more opportunity for examination of Laxmi as her own witness and they are

ready to pay reasonable compensation/costs to the respondent/plaintiff.

I have heard counsel for the petitioners, perused the paper book particularly the impugned order.

Vide order dated 30.5.2017 passed in Civil Revision No. 8460 of 2016, this Court noted that as many as 10 opportunities were afforded to the petitioners/defendants but during the period 4.8.2016 to 2.11.2016, as many as five deaths in the family of the petitioners have occurred. Taking into consideration the factual matrix coupled with interests of substantial justice, order dated 2.11.2016 closing evidence of the petitioners was set aside and the trial court was directed to afford one effective opportunity to the petitioners/defendants to adduce and conclude their evidence and then to decide the suit in accordance with law. On 31.7.2017, the petitioners examined PW-3. Two more witnesses came present before the Court who had already been examined and accordingly counsel for the petitioners-defendants before the court below stated that he did not want to examine the said witnesses.

Perusal of order dated 31.7.2017 (impugned) would make it evident that no such request was made before the court below that Ms. Laxmi Devi is unwell, therefore, unable to appear before the court. It further appears to the Court that no application much less supported by medical certificate now sought to be relied upon was placed on records of the trial court. If the petitioners did not bother to examine themselves despite intervention of this Court by allowing an opportunity to adduce their evidence, I do not find any reason to interfere in the order dated 31.7.2017. In this view of the matter, there is no merit in contention of the petitioners that they may be allowed another opportunity to adduce evidence, may be,

subject to payment of costs.

For the foregoing reasons, petition fails and is accordingly
dismissed in limine.

(Rekha Mittal)
Judge

22.8.2017
PARAMJIT

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