

In the High Court of Punjab and Haryana at Chandigarh

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Civil Revision No.6154 of 2016

.....

Date of decision:21.5.2018

Nand Rani through her LRs. Smt. Krishna Kumari alias Darshan Nanda and
another

.....Petitioners

v.

Gian Inder Kumar (since deceased) through his LRs Veena Rani and others
.....Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Anil Kumar Sharma, Advocate for the petitioners.

Mr. Arjun Veer Sharma, Advocate for respondents No.1 and 2.

Mr. Manbir Singh Batth, Advocate for respondent No.3.

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Inderjit Singh, J.

This civil revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 1.8.2016 (Annexure-P.1) passed by the learned Civil Judge (Junior Division), Ludhiana, whereby the evidence of the petitioners has been closed by Court order.

Notice of motion has been issued in this case.

Mr. Arjun Veer Sharma, learned Advocate has put in appearance on behalf of respondents No.1 and 2 and Mr. Manbir Singh Batth, learned Advocate has appeared for respondent No.3 and contested this civil revision petition.

I have heard learned counsel for the parties and have gone through the record.

From the record, I find that as per order dated 1.8.2016 PW-19 Krishna Kumari was present and cross-examined completely. No other PW was present on that day. Vide order dated 24.5.2016, only three opportunities were granted to the plaintiffs to lead their entire evidence and even opportunity was extended vide last order dated 21.7.2016. However, the plaintiffs had failed to conclude their evidence. PW-18 Bakshish had failed to appear before the Court below. No plausible explanation had come forth for not producing the said witness. There was no justification to adjourn the case further for the evidence of the plaintiffs and their evidence was closed by order. Aggrieved from this order the plaintiffs have filed this civil revision petition.

I have gone through the impugned order. PW-18 Bakshish is yet to be examined. It looks from the impugned order that on fifth opportunity, the learned Civil Judge (Junior Division), Ludhiana, closed the evidence. It is settled law that the rights of the parties should be determined on merit as far as possible and the Court should do substantial justice between the parties. The Court should not go into the technicalities of law. If the witness of the plaintiffs is not examined, the plaintiffs will suffer irreparable loss. No prejudice is going to be caused to the defendants if one opportunity is allowed to the plaintiffs-petitioners to complete their evidence.

Therefore, keeping in view the facts and circumstances of the present case, I accept this civil revision petition and allow the plaintiffs-

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petitioners one effective opportunity at their own responsibility to produce PW-18 Bakshish and any other witness subject to costs of ₹5,000/- to be paid to the opposite party.

Finding merit in this civil revision petition, the same is accordingly allowed.

May 21, 2018.

(Inderjit Singh)
Judge

hsp

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