

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND  
HARYANA AT CHANDIGARH

C.R. No.7349 of 2015 (O&M)

Date of Decision.17.04.2018

Dev Raj

.....Petitioner

Vs

Mahesh Kumar Agnihotri and others

.....Respondents

**CORAM:HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Abhishek Singla, Advocate for  
Mr. Keshav Pratap Singh, Advocate  
for the petitioner.

None for respondent No.1.

Mr. H.S. Bhatia, Advocate  
for respondent No.4.

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**AMIT RAWAL J.(ORAL)**

The present revision petition is directed against the order dated 22.07.2014 (Annexure P-4) whereby evidence of the petitioner-plaintiff, incorrectly mentioned as DW in the impugned order, has been closed by order. Both the parties submitted that the instead of word 'PW', 'DW' has been incorporated, which is incorrect.

Learned counsel appearing on behalf of the petitioner submitted that the petitioner instituted the suit in 2012 claiming declaration to be owner of the land in dispute whereby the evidence has been closed by order. He seeks one more opportunity to lead evidence as the order itself reveals that only four effective opportunities had been granted.

He further submitted that thereafter application for additional evidence (Annexure P-5) was filed, which has also been declined on the premise that once the evidence has been closed, the application for additional evidence is not permissible.

Learned counsel appearing on behalf of the respondent No.4

submitted that unnecessarily delaying tactics are being adopted by the petitioner-plaintiff. He is playing hide and seek with the Court by moving one application after another and rightly so, the applications have been rejected.

I have heard learned counsel for the parties and appraised the paper book. I am in agreement with the order under challenge (Annexure P-6) whereby the application submitted for additional evidence after closing the evidence has been dismissed as without challenging the order of closing the evidence, the application for additional evidence cannot be entertained or allowed.

Be that as it may, no doubt, the petitioner-plaintiff was negligent in concluding the evidence, however, in order to advance justice and prevent miscarriage of justice, I deem it appropriate to grant two effective opportunities to the petitioner to conclude the evidence.

Keeping in view the aforementioned observations, the impugned order (Annexure P-4) is set aside. The petitioner-plaintiff shall conclude the evidence in accordance with law subject to payment of costs of ₹5,000/- in order to defray the litigation cost of the respondents, which shall be condition precedent. If the costs is not paid as directed, the order passed already by the court below shall stand restored. The impugned order dated 23.10.2015 (Annexure P-6) is upheld.

The revision petition is allowed in the above terms.

**AMIT RAWAL)**  
**JUDGE**

**April 17, 2018**  
Pankaj\*

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|---------------------------|-----|
| Whether reasoned/speaking | Yes |
| Whether reportable        | No  |