

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-1938-2017 (O&M)

Date of Decision: 10.02.2020

State of Punjab and others

....Petitioners

Versus

Malkiat Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S. P. S. Tinna, Advocate
for the petitioner.

Mr. Harveen Kaur, Advocate
for the respondent.

ANIL KSHETARPAL, J. (ORAL)

CM-19862-CII-2019

This is an application to implead LR's of the respondent and also to place on record the amended Memo of Parties in the interest of justice.

Allowed as prayed for, subject to just exceptions. Legal heirs of respondent- Malkiat Singh as specified in para 3 of the application are brought on record for the purpose of defending the present revision only.

CR-1938-2017

State of Punjab has filed the present revision petition challenging the correctness of order dated 01.11.2016 passed by Civil Judge, Junior Division, Ludhiana refusing to grant further opportunity to the defendant-State of Punjab to lead evidence in a Civil Suit filed for grant of mandatory injunction with direction to the defendants to allot the land to the plaintiff. In the present case, although Tehsildar had tendered his affidavit in lieu of

examination in Chief, however, on the adjourned date, the witness did not appear forcing the Court to pass an order on 08.09.2016. The application filed by the defendant for permission to lead defence evidence was also rejected.

In the revision petition, it has been pleaded that the concerned Official was deputed to pursue the case fixed in the High Court and it is for this reason he could not attend the hearing. Thereafter, various other reasons have been given to justify the absence of the witness.

Once the witness has tendered his affidavit in lieu of examination in chief, he is expected to remain present on the adjourned date. There cannot be any justification for absence unless there are compelling reasons.

However, this Court is also conscious of the fact that in the main suit, relief of mandatory injunction for issuance of direction to the State to allot immovable property has been prayed for.

Keeping in view the aforesaid facts, in the interest of justice, defendants- petitioners are granted one more opportunity to lead their entire evidence on the date to be fixed by the Court. Such opportunity shall be subject to payment of cost of Rs.10,000/-. The same shall be recoverable from the concerned Tehsildar.

Disposed of accordingly.

February 10, 2020
Mehak

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No