

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

**CR-1302-2018
Decided on:-30.08.2022**

Amandeep Singh

....Petitioner..

vs.

Surinder Pal and others

....Respondents.

CORAM:HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Nakul Sharma, Advocate,
for the petitioner.

Ms. Puja Sharma, Advocate for
Mr. Sandeep Chopra, Advocate,
for respondents No.1 to 5.

HARKESH MANUJA J.

The present revision petition has been directed against the order dated 20.11.2017 (Annexure P-1) passed by learned Civil Judge (Junior Division), Amloh, at the instance of petitioner/plaintiff No.4 whereby the evidence of the plaintiffs was closed by court orders.

2. A suit for declaration was filed by the plaintiffs, claiming themselves to be owner in possession of the suit property on the basis of partition deed/settlement deed dated 30.11.2005. Along with the declaration, they also prayed for permanent injunction restraining the respondents/defendants or their agents/servants from interfering in their possession as well as from alienating the suit property. The issues before the trial court were framed on 08.05.2014, thereafter, the suit was fixed for

recording of plaintiffs evidence. Despite having been granted sufficient number of opportunities, the plaintiffs could not conclude their evidence and the same was ordered to be closed by the learned trial court on 20.11.2017. It may be relevant to submit here that between 08.05.2014 to 20.11.2017, the plaintiffs could produce two witnesses, namely, Kulwant Singh as PW-1 and Randhir Singh as PW-2, besides, tendering certain revenue documents. Out of the two aforesaid witnesses, Randhir Singh (PW-2) could only be cross-examined and the cross-examination of Kulwant Singh (PW-1) could not be effected. Besides it, even the revenue documents produced by plaintiffs were not proved/exhibited.

3. By way of present revision petition, the petitioner challenges the order dated 20.11.2017 (Annexure P-1) passed by the learned trial court and contends that though, there has been some delay on the part of the plaintiffs in concluding their evidence, however, they undertake to conclude entire oral as well as documentary evidence on one effective date/opportunity.

4. Learned counsel for the petitioner further submits that in case, the petitioner is not granted one effective opportunity to conclude the entire evidence, the plaintiffs will not be able to prove their case as pleaded in the plaint and, therefore, will suffer serious prejudice. It has also been contended that on the date of passing of the impugned order, as depicted even in the impugned order itself, affidavits of two witnesses were ready for being presented before the learned trial court and those witnesses were even present in the trial court, however, the plaintiffs were not permitted to tender the affidavits.

5. On the other hand, learned counsel for the respondents submits

that despite having obtained number of opportunities, the petitioner & other plaintiffs acted negligently & were not able to conclude their evidence and were only delaying the proceedings before the learned trial court, for one reason or the other.

6. Having heard, learned counsel for the parties and having gone through the paper book, I find that though the petitioner and the other plaintiffs were not acting diligently while pursuing their suit before the learned trial court, however, considering the fact that the affidavit of PW-1 Kulwant Singh is already on record and the affidavits of two more witnesses were available on the date of passing of the impugned order along with the presence of witnesses coupled with the fact that the plaintiffs have already placed on record certain revenue documents, which are required to be proved by them formally, as such, grant of one last effective opportunity to them so as to conclude their entire oral as well as documentary evidence at their own risk and responsibility may only further the cause of justice.

7. Keeping in view the aforesaid facts and circumstances, the revision petition is hereby allowed and the impugned order dated 20.11.2017 (Annexure P-1) is hereby ordered to be set aside with the direction to the learned trial court to grant one effective opportunity to the plaintiffs so as to conclude their entire oral as well as documentary evidence at their own risk and responsibility. However, considering the delay caused at the instance of the petitioner and other plaintiffs in disposal of the suit as well as in order to balance the equities, the petitioner is burdened with costs of Rs.20,000/-, which shall be paid by the petitioner to the respondents on the date fixed before the learned trial court, upon which, the learned trial court shall fix a date for grant of one opportunity to the petitioner and other

plaintiffs to conclude their entire evidence. Needless to say that the respondents/defendants shall also be given an opportunity by the learned trial court to lead their evidence in response to the fresh evidence brought on record by the petitioner and other plaintiffs in pursuance to the present order.

30.08.2022
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(HARKESH MANUJA)
JUDGE

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