

**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

**(202)**

CR-1662-2018 (O&M)

Date of decision : 29.10.2022

PARVEEN KUMAR AND ANR

**.....Petitioners**

**Versus**

RAJEEV RAO

**...Respondent**

**CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

Present: Mr. Ajay Jain, Advocate  
for the petitioners.

Mr. Manish Mehta, Advocate  
for the respondent.

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**HARKESH MANUJA, J (ORAL).**

The present revision petition has been filed, challenging the order dated 09.02.2018 passed by Additional Civil Judge (Sr. Division) Narnaul (Annexure P-1).

The facts leading to the present case are that a suit for possession invoking Section 6 of the Specific Relief Act, 1963 was filed at the instance of respondent No.1/plaintiff against the petitioners alleging forcible dispossession. After framing of issues, the proceedings were adjourned for recording of the evidence of respondent/plaintiff for 27.03.2014 and the same was concluded on 13<sup>th</sup> July 2017, thereafter, the proceedings were adjourned to 29<sup>th</sup> July 2017 for the purpose of recording of evidence of the petitioners/defendants. Later, vide impugned order dated

09<sup>th</sup> February 2018 passed by the Trial Court evidence of the petitioners was closed by Court order.

Learned counsel for the petitioners refers to the *zimni* orders passed by the trial Court with effect from 29<sup>th</sup> July 2017 till the passing of the impugned order i.e., 09<sup>th</sup> February 2018 and submits that the petitioners have been acting with all due diligence and even examined their 08 witnesses. He further submits that the only evidence which his clients now intends to adduce is writing dated 19<sup>th</sup> March 2014 executed by son of respondent/plaintiff (Parveen), besides two judgments dated 04.09.2017 & 17.01.2018 passed by the JMIC, Narnaul. He also submits that for the purpose of proving the writing dated 19<sup>th</sup> March 2014 which was lying with the FSL authorities at Madhuban, one official was even sought to be summoned with the Court assistance who did not appear and the trial Court even did not follow the procedure as enshrined under Order 16 Rule 10 CPC.

On the other hand learned counsel for the respondent/plaintiff submits that once the execution of the document dated 19<sup>th</sup> March 2014 stands admitted by his client including the admission of its contents, no useful purpose is going to be served by proving or producing the said writing. In addition, he also submits that though the execution of the writing has been admitted, however, son of the respondent/plaintiff had no authority to execute any such document and the same was got executed from him as an effect of coercion. He further submits that two judgments passed by the JMIC Narnaul would have no binding effect on the present dispute pending before the Civil Court.

I have heard learned counsel for the parties and also gone

through the records. Having perused the *zimni* orders re-produced in the petition from pages 2 to 7 of the paper-book, I find that the petitioners/defendants cannot be held to be having acted in a negligent manner. Rather, having examined 08 witnesses, it appears that the petitioners/defendants acted with all due diligence and the trial Court in fact acted in some kind of haste. Though, a perusal of the order dated 09<sup>th</sup> July 2019 passed by this Court shows that the writing dated 19.03.2014 executed by son of the respondent besides, even admitting its contents has been admitted, still, I am of the view that the assertion on the part of the respondent/plaintiff that the said writing was an effect of coercion needs to be adjudicated upon by the trial Court and for the said purpose the production of the same was very much necessary. Further, it is not for this Court to adjudicate upon the evidentiary value of the writing dated 19.03.2014 besides the judgment passed by JMIC, Narnaul now sought to be produced as the same has to be gone into by the trial Court. At this stage, it is only to be seen as to whether the documents sought to be produced have some relevance for the purposes of adjudication of the *lis* pending between the parties before the trial Court.

Considering the aforesaid discussion as well as in order to further the cause of justice, I find merit in the present revision petition and the same is thus, allowed. The impugned order dated 09.02.2018 is hereby set aside. The petitioners/defendants shall be granted one opportunity by the learned trial Court, permitting them to conclude their evidence by affording them an effective chance in this regard. However, it is made clear that in case, any official witness is required to be produced by the petitioners/defendants, they shall be at liberty to seek Court assistance as

available under Law.

Considering the fact that the suit was filed under Section 6 of the Specific Relief Act 1963 and was thus to be adjudicated upon by adopting a summary procedure, the trial Court shall make every endeavour to dispose of the same preferably within a period of four months from today.

**(HARKESH MANUJA )  
JUDGE**

**29.10.2022**

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No