

288-2

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

**CR-5951-2018 (O&M)
Date of decision : 25.07.2022**

Nirbhai Singh & Ors.

... Petitioner(s)

Versus

Darshan Singh & Ors.

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. M.L. Saggar, Senior Advocate with
Mr. Sunny Saggar, Advocate for the petitioners.

Mr. D.S. Malwai, Advocate
for respondent Nos.1, 2, 4 and 5.

None for respondent No.3.

ALKA SARIN, J. (ORAL)

The challenge in the present revision petition under Article 227 of the Constitution of India is to the order dated 05.09.2017 (Annexure P-1) whereby the evidence of the petitioners was closed by order as also to the order dated 04.12.2017 (Annexure P-2) vide which the application filed by the petitioners for leading additional evidence was dismissed.

Learned counsel for the petitioners would contend that at this stage he limits his prayer in the present petition to challenging the order dated 05.09.2017 (Annexure P-1) whereby their evidence was closed by order. Learned counsel for the petitioners would contend that the person who is pursuing the case went to England for a period of six months to attend his ailing mother and, hence, his evidence could not be led. It is further the

contention of learned counsel that the respondents are in gross contempt of the orders passed by the Court inasmuch as despite a stay order, they had sold the suit property.

Per contra, learned counsel for respondent Nos.1, 2, 4 and 5 would contend that 8 effective opportunities were granted, however, the petitioners failed to conclude their evidence. Learned counsel for the respondents has further contended that the order dated 04.12.2017 was challenged by the petitioners by filing CR No.648 of 2018 which was dismissed as withdrawn on 03.05.2018 with liberty to file afresh.

Heard.

In the present case the petitioners, alleging violation of the injunction order passed by the Court, filed a contempt petition under Order 39 Rule 2-A of the Code of Civil Procedure, 1908 and in the said petition the petitioners were unable to lead their evidence as directed in view of the fact that the person pursuing the case went out of the country to attend his ailing mother. The stage at which the present revision petition was filed was when the case was still fixed for cross-examination of PW-1 and hence no injustice would be caused to the respondents in case the present revision petition is allowed and the order dated 05.09.2017 (Annexure P-1) is set aside. In order to do complete justice between the parties especially in view of the fact that the petitioners have alleged violation of the injunction order passed by the Court, this Court deems it proper to set aside the impugned order dated 05.09.2017 (Annexure P-1). The petitioners shall be granted two effective opportunity to conclude their evidence at their own responsibilities subject to the payment of Rs.15,000/- as costs to be paid to

the respondents.

Disposed off, accordingly. Pending applications, if any, also stand disposed off.

**(ALKA SARIN)
JUDGE**

25.07.2022
Yogesh Sharma

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : Y