

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

**Civil Revision No.490 of 2023 (O&M)
Date of Decision: 17.02.2023.**

Birender & Others

...Petitioners

Versus

Smt. Risali & Others

...Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Sanjeev Bishnoi, Advocate,
for the petitioners.

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MEENAKSHI I. MEHTA, J.(ORAL)

CM No.2457-CII of 2023

This application has been moved on behalf of the applicants-
petitioners with a prayer for taking the photocopies of the interim orders, as
passed by the trial Court, on the record as Annexures P-5 to P-20.

Heard.

Keeping in view the reasons as mentioned in this application,
the same is allowed and Annexures P-5 and P-20 are taken on the record.

CR No.490 of 2023

Feeling aggrieved by the order dated 12.12.2022 (Annexure
P-3) passed by learned Additional Civil Judge (Senior Division), Meham
(for short 'the trial Court') in the Civil Suit No.90 of 2017 titled as "***Smt.
Risali etc. Vs. Balwan etc.***", whereby the evidence of the defendants has

been closed, the petitioners-defendants No.4 to 7 (here-in-after to be referred as 'the petitioners') have preferred the instant revision petition to lay challenge to the same.

2. I have heard learned counsel for the petitioners-defendants No.4 to 7 in the present revision petition, at the preliminary stage and have also gone through the file carefully.

3. A perusal of the file reveals that respondents No.1 to 7-plaintiffs closed their evidence on 02.09.2022 and thereafter, the case had been adjourned to 30.09.2022, 28.10.2022, 18.11.2022 and 09.12.2022 for recording the evidence of the defendants and on 09.12.2022, the petitioners (defendants No.4 to 7) were proceeded against *ex-parte* but on 12.12.2022, their counsel had appeared in the Court and the evidence of the defendants had been closed vide the impugned order. Though, the petitioners did not conclude their evidence well in time but keeping in view the fact that in case, they are deprived of the opportunity to lead their evidence, they shall suffer an irreparable loss that may further result in the mis-carriage of justice, this Court is of the considered opinion that it would be in the fitness of the things and the ends of justice will also be best served if the petitioners (defendants No.4 to 7) are granted one more opportunity to conclude their evidence in the afore-referred Civil Suit but subject to the payment of cost to respondents No.1 to 7-plaintiffs.

4. Resultantly, without issuing the notice to the respondents-plaintiffs so as to avoid any further delay in the trial of the said Civil Suit and also to avert the expenses that they may have to incur to defend in the

instant revision petition, the impugned order dated 12.12.2022 (Annexure P-3) is hereby partly set aside to the extent that the trial Court is directed to afford only one more effective opportunity to the petitioners-defendants No.4 to 7 to lead/conclude their evidence in the above-said Civil Suit but the payment of the cost of Rs.7,000/- to respondents No.1 to 7-plaintiffs shall be a condition precedent for doing so and in case of the default on their (petitioners') part in concluding their evidence or the payment of the cost on the date as may be fixed by the trial Court, they (petitioners) shall not be entitled to any further opportunity for the said purpose. The revision petition in hand stands disposed of accordingly.

5. It is further clarified that in the eventuality of the respondents-plaintiffs feeling aggrieved by this order, he/she shall be at liberty to move an appropriate application to contest the present revision petition.

17.02.2023

seema

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned:

Yes

Whether Reportable:

No