

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

CR-2697-2022 (O&M)

Date of Decision : 22.02.2023

Renu

....Petitioner

VERSUS

Nishi Uppal and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Satish Chaudhary, Advocate for the petitioner.

Mr. A.K. Walia, Advocate for respondent No.1.

ALKA SARIN, J. (Oral)

The present revision petition has been filed under Article 227 of the Constitution of India impugning the order dated 01.07.2022 passed by the Trial Court whereby the evidence of the defendant-petitioner has been closed by order.

Learned counsel for the defendant-petitioner would contend that witnesses were the summoned witnesses who were not appearing despite being summoned by the Court. Learned counsel would further contend that if one opportunity is granted to the defendant-petitioner, she would lead her entire evidence at her own risk and responsibility.

Learned counsel for the plaintiff-respondent No.1 has vehemently contended that already sufficient opportunities have been granted and that a perusal of the zimni orders would reveal that the defendant-petitioner was not producing her witnesses despite numerous opportunities and that is why the order closing the evidence of the defendant-petitioner was passed.

Heard.

In the present case, learned counsel for the defendant-petitioner has stated that if the defendant-petitioner is given opportunity she would lead the entire evidence at her own risk and responsibility. Learned counsel has also submitted that the said witnesses are necessary for proving the Will which was allowed by way of secondary evidence vide order dated 11.05.2022 and that the entire case of the defendant-petitioner hinges on the said evidence.

No doubt the defendant-petitioner has been lax in leading her evidence. However, to do justice between the parties and for the proper and just adjudication of the dispute, this Court deems it appropriate to grant the defendant-petitioner two opportunities to lead her entire evidence at her own risk and responsibility. The present revision petition is therefore allowed and the impugned order is set aside. The defendant-petitioner shall be afforded two effective opportunities to lead her entire evidence at her own risk and responsibility. The said opportunities will be given subject to the payment of Rs.30,000/- as costs to the plaintiff-respondent No.1, which shall be a condition precedent for leading the evidence.

Pending applications, if any, also stand disposed off.

February 22, 2023
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(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO