

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

CR-4334-2019 (O&M)

Date of decision: 24.07.2023

Surjeet and others

...Petitioners

Versus

Balbir Kaur and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Ajay Pal Singh, Advocate for the petitioners.

Mr. J.S. Cooner, Advocate for the respondents.

H.S. MADAAN, J. (Oral)

In a suit for possession filed by plaintiff Balbir Kaur and others against defendants Smt. Surjeet and others, pending in the Court of Addl. Civil Judge (Sr. Divn.) Kalka, issues on merits had been framed and the parties were given opportunities to lead evidence in support of their respective claims. Since the defendants could not conclude their evidence despite being given around 18 opportunities, their evidence was closed by the trial Court, vide impugned order dated 12.03.2019, leaving the defendants aggrieved and they have been approached this Court by way of filing the present revision petition, notice of which was given to the respondents/plaintiffs who have put in appearance through counsel.

2. After hearing counsel for the parties and going through the record, it transpires that when the case was at the stage of rebuttal and arguments, the plaintiffs had filed an application and on the basis thereof,

an additional issue was framed, vide order dated 18.03.2019 as follows:-

“1-A Whether plaintiff is entitled for relief of mesne profit @ Rs.5000/- per month per Biswa from date of filing of the suit till its actual realization? OPP.”

It being so, since the onus of proving the additional issue No.1-A has been placed upon the plaintiffs, naturally the defendants have got a right to lead evidence in rebuttal and depriving them of such right shall result in miscarriage of justice. Therefore, the present revision petition is disposed of directing the trial Court to afford reasonable opportunity of leading evidence in rebuttal to issue No.1-A to the revision petitioners/defendants. Since the civil suit is stated to be of the year 2015, the trial Court may fix short dates for that purpose.

3. A copy of the order be sent to the trial Court through District & Sessions Judge, Panchkula for information and necessary compliance.

24.07.2023
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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No