

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

109

CR-6493-2023
Date of decision: 09.11.2023

PARVINDER KAUR @ PARMINDER KAUR Petitioner

Versus

ARYAN AND ANOTHER Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Abhinav Sood, Advocate, for
Mr. Vikram Singh, Advocate for the petitioner.

GURBIR SINGH, J. (Oral)

1. Challenge in this revision petition filed under Article 227 of the Constitution of India is for setting aside the order dated 16.10.2023 (Annexure P-53) passed by learned Civil Judge (Junior Division), Ambala, whereby the evidence of the petitioner-defendant No.1 has been closed by order.
2. Learned counsel for the petitioner-defendant No.1, at the outset, submits that the written statement was amended in pursuance of application moved by the petitioner-defendant No.1. An issue with regard to the Will was framed. The learned trial Court considering that the petitioner-defendant No.1 had availed numerous opportunities to conclude the evidence, her evidence was closed by order. She admits that there is some inaction on her part but proving of the Will is necessary. Learned counsel further submits that one opportunity be granted to the petitioner to lead evidence and she would

produce the evidence at her own responsibility and shall not claim any other other opportunity.

3. On asking, learned counsel for the petitioner has placed on file list of witnesses to be examined and when faced with situation that why Patwari is to be examined, when clerk concerned can prove the registration of Will, then learned counsel for the petitioner submits that the petitioner-defendant No.1 wants to examine only two witnesses, namely, Lambardar Kamaljit and Record Clerk of DC Office Varun.

4. Learned counsel for the petitioner submits that the petitioner-defendant No.1 will take the summons dasti and get the said witnesses examined at her own responsibility and would not claim any further opportunity.

5. Keeping in view the fact that the procedure is handmaid to the administration of justice and it is meant for advancement of justice; the petitioner should not be non-suited merely on procedural technicalities. As the technicalities have no role to play in the path of justice and no prejudice would be caused to other side if one opportunity is granted to the petitioner to lead remaining evidence.

6. If notice of this petition is given to the respondent-plaintiff, then it may linger on the case and may cause financial burden to the respondent-plaintiff.

7. So, in the interest of justice, present petition is disposed with a direction to the trial Court to give one opportunity to the petitioner-defendant

No.1 to examine the witnesses, namely, Lambardar Kamaljit and Record Clerk

of DC Office Varun, subject to payment of costs of Rs.10,000/- to the respondent-plaintiff. The said witnesses shall be produced at the responsibility of the petitioner-defendant No.1. She may take dasti summons for service of said witnesses for producing them in the Court. In case of default, this order shall automatically stands vacated.

8. If the respondent-plaintiff is not satisfied with this order, he can move an application for recalling of this order within 30 days.

(GURBIR SINGH)
JUDGE

November 9, 2023
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>