

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

**Civil Revision No. 6537 of 2023(O&M)
Date of Decision: 03.11.2023**

Asha Rani Malhotra & Ors.

...**Petitioners**

Versus

Suresh Kumar Malhotra & Ors.

...**Respondents**

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Manpreet Singh Kanda, Advocate
For the petitioners.**

KARAMJIT SINGH, J.

1. The present petition has been filed by the petitioners/defendants seeking setting aside of order dated 18.10.2023 (Annexure P-7) passed by the Court of Civil Judge (Jr.Divn.), Jalandhar whereby the evidence of the petitioners has been closed by order.

2. The counsel for the petitioners while assailing the impugned order, *inter alia*, contends that earlier the petitioners filed an application for permission to lead additional evidence and the said application was allowed and learned trial Court granted two opportunities to the petitioners to produce additional evidence subject to costs of Rs.4000/- vide order dated 14.09.2023 and the case was fixed for 27.09.2023 for that purpose only. That on 27.09.2023 the Local Bar Association observed 'No work day' and as such the case was adjourned to 18.10.2023 for the purpose of additional evidence of the petitioner. It is further contended that due to unavoidable circumstances on 18.10.2023 the petitioners were unable to produce the

additional evidence and consequently the trial Court passed impugned order (Annexure P-7). It is further submitted that the impugned order was passed in haste without affording two effective opportunities to the petitioners to lead their evidence in the light of earlier order dated 14.09.2023. The counsel for the petitioners further submits that in the given circumstances the impugned order deserves to be set aside and prayer is made that two effective opportunities be granted to the petitioners to conclude their additional evidence.

3. I have considered the submissions made by counsel for the petitioners.

4. Admittedly, vide order dated 14.09.2023 two opportunities were granted to the petitioners by the learned trial Court to lead additional evidence subject to costs. From the perusal of the documents available on the record it appears that before passing the impugned order two effective opportunities were not granted to the petitioners by the learned trial Court to conclude their additional evidence, as on the first date i.e. 27.09.2023 no evidence was recorded as the advocates were on strike. No doubt the provision of Order 18 Rule 17-A CPC was deleted w.e.f. 01.07.2002, with the purpose to expedite trial of the case. However, even after the deletion of said statutory provision, there is inherent power with the Court under Section 151 CPC to allow any party to adduce evidence even at a later stage, if it is required for the just decision of the case. The Hon'ble Supreme Court in **Salem Advocate Bar Association, Tamil Nadu, Vs. Union of India 2005(6) SCC 344** has held that inspite deletion of provision of Order 18 Rule 17-A CPC, the Court has always inherent powers to exercise jurisdiction for advancement of justice in terms of provisions under Section 151 CPC. From the perusal of the

earlier order dated 14.09.2023 passed by the trial Court, it appears that the evidence which the petitioner intends to produce by way of additional evidence is necessary for the just decision of the case. Keeping all the facts and circumstances of the case in view and even accepting that the petitioners were negligent in their conduct, closing their evidence will be the extreme penalty. The interest of justice would also be served if further opportunity is given to the petitioners to complete their evidence.

5. Accordingly, the impugned order is set aside and two opportunities are granted to the petitioners to lead additional evidence subject to costs of Rs.5000/- which is to be paid to the other side on the next date of hearing. The revision petition stands disposed of in aforesaid terms.

6. Keeping in view the nature of order being passed, no notice is required to be issued to the respondents. However, if they feel dis-satisfied with this order, they may move an application to recall the same.

03.11.2023

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**(KARAMJIT SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No