

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

126

**CR-755-2024 (O&M)
Decided on: 12.02.2024**

Raj Kumar

...Petitioner

Versus

Jatinder Kumar and others

...Respondents

CORAM: HON'BLE MRS JUSTICE RITU TAGORE

Present: Mr. Nakul Sharma, Advocate
for the petitioner.

RITU TAGORE, J. (Oral)

1. This revision is directed against the order 31.01.2024 (Annexure P-1) passed by learned Additional Civil Judge (Senior Division), Ferozepur whereby evidence of the petitioner (defendant No.1) has been closed by the Court.

2. Learned counsel submits that the petitioner had moved an application (Annexure P-6) for summoning the witnesses including Head Registration clerk, office of Deputy Commissioner, Ferozepur alongwith record pertaining to vasika No.158 dated 26.06.1996, regarding the execution of the Will of Sh. Hari Ram son of Sh. Bihari Lal registered in the office of Sub Registrar, Ferozepur on 26.06.1996 and also deposited diet charges on 24.11.2022. In support of his submission. places on record the photocopy of Form No.5, showing the deposit of diet charges with the

Civil Nazir of the office of Civil Judge (Senior Division), Ferozepur.

Learned counsel submits that witnesses mentioned at Serial No.i to iv were summoned and examined, but the witness mentioned at Serial No.v in the application (Annexure P-6) was not summoned. It is submitted that the witness is very material as the petitioner is relying upon the Will dated 26.06.1996 and the order of closing the evidence has prejudiced the petitioner. A prayer is made that an opportunity be given to examine the witness.

3. Considering the limited prayer made in this revision, notice to respondents is dispensed with.

4. Perusal of paper book would show that petitioner had filed an application (Annexure P-6) containing the list of witnesses to be summoned on his behalf. Photocopy of Form No.5 shows that the petitioner has deposited diet money with the office of Civil Judge (Senior Division) Ferozepur on 24.11.2022 with receipt No.035202.

5. It is emphasized here that a party should be allowed to contest the matter on merits rather than scuttling their rights on rigid grounds. Deciding a dispute after hearing both the parties is deemed preferable, and a technical approach leading to closure of contesting doors should be avoided. Furthermore, the counsel for the petitioner undertakes to conclude the evidence in two effective opportunities.

6. Under these circumstances, interest of justice necessitate that petitioner be given an opportunity to lead his evidence to enable him to put his case before the learned trial Court. Impugned order is set aside to the extent that learned trial Court shall give the petitioner two effective opportunities to allow him to examine the witness mentioned at serial No.v i.e. Head

Registration Clerk, office of Deputy Commissioner, Ferozepur alongwith record, only. The Revision is allowed to the aforesaid limited extent.

7. Pending applications, if any, also stands disposed of accordingly.

(RITU TAGORE)
JUDGE

12.02.2024
Rimpal

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No