

S. No.131

2024:PHHC:093990



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

CR No.4123 of 2024

Date of Decision:25.07.2024

M/s Surta Ram Rajinder Kumar and anotherPetitioners

Vs.

Lekh Raj and Sons

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Ms. Tamanna Banwala, Advocate for the petitioners.

DEEPAK GUPTA, J. (Oral)

Petitioners before this Court are the plaintiffs in Civil Suit No.16 of 2021 (CNR No.HRKH02-000367-2021) titled as “M/s Surta Ram Rajinder Kumar and another Vs. Lekh Raj and Sons”, pending in the Court of learned Additional Civil Judge (Senior Division), Kaithal.

2. Petitioners are aggrieved by the order dated 24.05.2024, whereby their evidence has been closed.

3. Learned counsel has drawn attention towards the fact that on at least two of the occasions, the witnesses of the plaintiffs were present but their presence was not marked. Learned counsel has drawn attention towards order dated 06.07.2023 (Annexure P.3), as per which no PW was present and the case was adjourned to 03.08.2023 for cross-examination of PW – Tarsem and Rajinder. On the next date of hearing, i.e. 03.08.2023, again it is noticed by the Court concerned that no PW was present. It is despite the fact that both these witnesses were present and they had put their signatures on the margin of the order-sheet with the date 03.08.2023, as is reflected in Annexure P.3.



4. Learned counsel submits that the same thing happened later on also inasmuch as PW – Tarsem was present on 15.03.2024, as is evident from his signatures endorsed under the order dated 09.01.2024 but it is observed in the order dated 15.03.2024 that no PW was present.
5. After hearing learned counsel and going through the paper book, it appears that concerned Court is proceeding with the matter in a very casual way, without recording the proceedings in the true manner.
6. Without commenting anything further on the merits of the case, the impugned order dated 24.05.2024 (Annexure P.1) is hereby set aside. The trial Court is directed to provide one more opportunity to the plaintiffs- petitioners so as to conclude their evidence. This is, subject to cost of ₹10,000/- to be paid by the plaintiffs- petitioners to the opposite party by way of bank draft.
7. As this order has been passed without issuing any notice to the respondent- defendant, therefore, the respondent- defendant will be at liberty to approached this Court, in case it feels aggrieved.
8. Disposed of.

July 25, 2024
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No