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

CR-5191-2024

Date of decision: 09.09.2024

Rajinder Singh

...Petitioner

Versus

Jabar Jang Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. H.R. Bhardwaj, Advocate for the petitioner.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 21.08.2024 passed by the Civil Judge (Junior Division), Sunam vide which the trial Court had closed the evidence of the plaintiff/petitioner by order.

2. Learned counsel for the petitioner has submitted that in the present case, the petitioner had filed a suit for declaration to the effect that the plaintiff/petitioner and the defendants/respondents are owners and in possession, in equal share to the extent of 1/3rd share each in the property in question and had further prayed for separate possession of share of the petitioner/plaintiff by way of partition. It is further submitted that thus, delay, if any, in the proceedings would primarily harm the petitioner. It is further argued that in the present case, the issues were framed on



04.09.2023 and the case was adjourned to 04.10.2023 for the evidence of the plaintiff. It is further submitted that a perusal of zimni orders from 04.12.2023 to 10.07.2024 would show that the petitioner has been pursuing the matter diligently. The zimni orders dated 04.12.2023, 16.01.2024, 20.02.2024, 14.03.2024, 19.04.2024, 16.05.2024 as well as 10.07.2024, which have been highlighted by learned counsel for the petitioner, are reproduced hereinbelow:-

“ORDER DATED 04.12.2023:-

Present: None.

File taken up today as I shall be on casual leave on 05.12.2023, 06.12.2023 and 07.12.2023. The case stands adjourned to 17.01.2024 for the purpose already fixed. Parties through their counsel be informed accordingly.

Dated: 04.12.2023

(Daleep Kumar)

*Civil Judge (Junior Division),
Sunam.*

ORDER DATED 16.01.2024:-

Present: None.

File taken up today as 17.01.2024 is holiday on account of Sri Guru Gobind Singh's Birthday. The case stands adjourned to 20.02.2024 for the purpose already fixed. Parties through their counsel be informed accordingly.

Dated: 16.01.2024

(Daleep Kumar)

*Civil Judge (Junior Division),
Sunam.*

ORDER DATED 20.02.2024:-

Present: Sh. Gurleen Singh, Adv., counsel for the plaintiff.

Sh. Shankar Puri, Advocate for the defendant no. 2.

Sh. IP Garg, Advocate counsel for defendant no. 1.

Witnesses Registry clerk office of Sub Registrar, Lehra



and Mukhtiar Singh, Nambardar not come present despite being duly served and as such they both be summoned through bailable warrants in the sum of Rs. 5000/- each with one surety of the like amount each for 14.03.2024. Summon issued to witness Mewa Singh received back unserved. Let he be summoned a fresh for the date fixed.

Dated: 20.02.2024

(Daleep Kumar)

*Civil Judge (Junior Division),
Sunam.*

ORDER DATED 14.03.2024:-

Present: Sh. Gurleen Singh, Adv., counsel for the plaintiff.

Sh. Shankar Puri, Advocate for the defendant no. 2.

Sh. IP Garg, Advocate counsel for defendant no. 1.

PW-1 Rajinder Singh, PW-2 Mukhtiar Singh, Numbardar and PW-3 Ajit Pal Singh, Registry Clerk, Registrar Office, Lehra are present and examined in chief. Their cross-examination are deferred at the request of counsel for defendants. According, they are bound down for 19.04.2024.

Dated: 14.03.2024

(Daleep Kumar)

*Civil Judge (Junior Division),
Sunam.*

ORDER DATED 19.04.2024:-

Present: Sh. Gurleen Singh, Adv., counsel for the plaintiff.

Sh. Shankar Puri, Advocate for the defendant no. 2.

Sh. IP Garg, Advocate counsel for defendant no. 1.

PW-1 Rajinder Singh is present but not cross examined at the request of counsel for defendants. According, he is bound down for 16.05.2024. Remaining PWs be also summoned for the date fixed.

Dated: 19.04.2024

(Daleep Kumar)

*Civil Judge (Junior Division),
Sunam.*

ORDER DATED 16.05.2024:-



*Present: Sh. Gurleen Singh, Adv., counsel for the plaintiff.
Sh. Shankar Puri, Advocate for the defendant no. 2.
Sh. IP Garg, Advocate counsel for defendant no. 1.
PW-3 Ajit Pal Singh, Registry Clerk, RC office Lehra is present and cross examined completely. Witness Rajinder Singh is present but not cross examined at the request of counsel for defendants. According, he is bound down for 10.07.2024. Witness Mukhtiar Singh, Numberdar not come present despite being duly served and as such, he be summoned throughailable warrants in the sum of Rs. 5000/- with one surety of the like amount for the date fixed.*

*Dated: 16.05.2024 (Daleep Kumar)
Civil Judge (Junior Division),
Sunam.*

ORDER DATED 10.07.2024:-

*Present: Sh. Gurleen Singh, Adv., counsel for the plaintiff.
Sh. Shankar Puri, Advocate for the defendant no. 2.
Sh. IP Garg, Advocate counsel for defendant no. 1.
PW-2 Mukhtiar Singh, Numberdar is present and cross examined completely. Vide his separate statement plaintiff Rajinder Singh has given up witness Mewa Singh son of Udham Singh, resident of Ratakhera due to old age and Rajinder Prashad Goyal, Document Writer, Lehra Gaga in connivance with the defendant No. 1 Jabarjang Singh. Now to come up on 06.08.2024 for remaining evidence of the plaintiff.*

*Dated: 10.07.2024 (Daleep Kumar)
Civil Judge (Junior Division),
Sunam”*

3. Learned counsel for the petitioner has submitted that on 10.07.2024, the matter was adjourned to 06.08.2024 and also thereafter, to 21.08.2024 on which dates no evidence of plaintiff/petitioner was there and



thus, the plaintiff's evidence was closed. It is submitted that however, a perusal of the zimni orders would show that on certain dates, it was counsel for the defendants/respondents who had sought adjournments to cross-examine the witness of the petitioner/plaintiff and on certain dates, official witness did not appear in spite of having been served and thus, bailable warrants were issued to them and large number of witnesses of the petitioner/petitioner were also examined. Thus, it is prayed that the petitioner be granted one last effective opportunity to examine the remaining witnesses of the petitioner/plaintiff including the petitioner/plaintiff himself and in case, the said opportunity is not granted then the same would cause irreparable loss to the petitioner. It is further submitted that the petitioner is also ready to compensate respondent Nos.1 and 2 for the same.

4. Keeping in view the abovesaid facts and circumstances and also zimni orders which have been highlighted by learned counsel for the petitioner, this Court is of the opinion that the petitioner deserves one more effective opportunity to complete his evidence. Thus, the present revision petition is partly allowed and impugned order dated 21.08.2024 is set aside and the petitioner is granted one more effective opportunity to lead his entire evidence at his own responsibility. The petitioner would bring the present order to the notice of the trial Court on 11.09.2024, on which date the trial Court would give the petitioner a date to produce his entire evidence at his own responsibility. Same would be subject to the payment of costs of Rs.5000/- which would be deposited by the petitioner on 11.09.2024 and the same would be released by the trial Court to respondent

Nos.1 and 2 in equal proportion.

5. It is made clear that in case the said costs is not deposited by the petitioner by 11.09.2024 or that all the remaining witnesses are not produced before the trial Court on the date to be fixed by the trial Court then the present revision petition would be deemed to have been dismissed.

6. In the present case, no notice is being issued to the respondents as issuance of notice to them would further delay the proceedings and would also entail the expenses for respondent Nos.1 and 2 to defend the present revision petition. However, it would be open to respondent Nos.1 and 2 to move an application for recalling of the present order in case any of the statement made before this Court is found to be false/incorrect.

09.09.2024
Pawan

(VIKAS BAHL)
JUDGE

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