

**CR-6449-2024****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****(133)****CR-6449-2024****Date of Decision: - 06.11.2024****Sushila and another****....Petitioners****Versus****Kanchan and others****.....Respondents****CORAM : HON'BLE MR. JUSTICE VIKAS BAHL**

Present:- Mr. Rohit Sharma, Advocate,
for the petitioners.

**********VIKAS BAHL, J. (ORAL)**

1. Present revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 06.09.2024 passed by the Principal Judge, Family Court, Gurugram, in Civil Suit No.14 of 2020 filed by the respondents titled as 'Kanchan and others Vs. Pawan and others', vide which the defence of petitioners was struck off.

2. Learned counsel for the petitioners has submitted that in the present case, the first date for the evidence of the petitioners was 19.07.2024 and for the said purpose, has referred to page 51. It is further submitted that on 19.07.2024 since the Court was availing casual leave for 19.07.2024, thus, the matter was taken on 18.07.2024 and the same was adjourned to 02.08.2024. It is stated that on 02.08.2024, which was

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the first effective date, the last opportunity was granted to the petitioners to lead their evidence on 06.09.2024 and on the said date, the impugned order was passed. It is further stated that in case, the petitioners are not granted one effective opportunity to lead their entire evidence, then, they would suffer irreparable loss. It is submitted that the petitioners are ready to pay the cost of Rs.2,000/- which has been imposed by the Family Court and would further ready to compensate respondents No.1 to 3 for the delay in the proceedings.

3. Keeping in view the above-said facts and circumstances, this Court is of the opinion that the petitioners should be granted one effective opportunity to conclude their entire evidence, subject to reasonable costs and accordingly, the present revision petition is partly allowed and the impugned order dated 06.09.2024 is set aside to the extent that defence of respondent is struck off under Section 35-B CPC, with the following directions: -

- (i) Petitioners would deposit the costs of Rs.2,000/- as imposed by the trial Court and also an additional costs of Rs.10,000/- on or before 11.11.2024 and the trial Court would release the same to respondent No.1.
- (ii) Petitioners would also present all their evidence on 11.11.2024 and only those witnesses who are produced on 11.11.2024 would be permitted to be examined by the petitioners and due opportunities would be granted to respondents No.1 to 3 to cross-examine the said witnesses



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and in case, no witness is presented by the petitioners on 11.11.2024, then, no further opportunity would be granted to the petitioners to lead the evidence.

5. It is made clear that in case, the petitioners do not deposit the costs of Rs.10,000/- + Rs.2,000/- on or before 11.11.2024 and do not produce their witnesses on the said date, the present revision petition would be deemed to have been dismissed.

6. It would be relevant to mention that notice of motion has not been issued to respondents No.1 to 3 as issuance of any notice would further delay the proceedings in the suit and would also entail expenses for respondent No.1 to 3 in order to defend the present petition. However, it would be open to respondent No.1 to 3 to move an application for recalling the present order in case, any statement made before this Court is found to be false/incorrect.

November 06, 2024
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No