



CR No.7398 of 2024 (O&M) -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CR No.7398 of 2024 (O&M)
Date of Decision: 18.12.2024

Khan Mohammad (since deceased) through his LR **Petitioner**

Versus

Sanjay (since deceased) through his LR's and others **Respondents**

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Arav Gupta, Advocate
for the petitioner.

VIKAS BAHL, J (ORAL)

1. This is a civil revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 25.10.2024 (Annexure P-15) passed by the Additional Civil Judge (Sr. Divn.), Sirsa vide which the evidence of the petitioner/plaintiff has been closed by Court order.

2. Learned counsel for the petitioner has submitted that the petitioner is the one of the plaintiffs in the suit and the issues in the present case were framed on 27.02.2024 and on 15.10.2024, the petitioner had sought to summon four official witnesses regarding which the petitioner had deposited the requisite fee. It is submitted that subsequently on 25.10.2024, one PW-Budh Ram Punia had appeared and he had been examined as PW-4. It is submitted that even Mohan Kumar, Clerk from the Treasury office had appeared as PW-5, however since he had not brought the summoned record, the trial Court closed the evidence of the petitioner instead of directing the

said PW-Mohan Kumar, Clerk to bring the summoned record. It is



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submitted that although in law once the petitioner has deposited the requisite fee, then it is the right of the petitioner to seek the help of the Court in summoning the said witnesses and also in examining the said witnesses with the relevant record but the petitioner in the present case would restrict his plea for grant of three effective opportunities to examine the three remaining witnesses, as mentioned in the application (Annexure P-17) at his own responsibility and has further submitted that although, the delay in the proceedings primarily causes prejudice to the petitioner, who is the plaintiff, but due to the inconvenience caused to respondents No.1, 2 and 4 (LRs of defendant No.3 being *ex parte*), who are the contesting defendants in the suit, the petitioner is ready to pay the adequate cost.

3. Keeping in view the above facts and circumstances of the case and the fact that the witnesses which are sought to be examined by the petitioner are summoned witnesses, this Court is of the opinion that three effective opportunities be granted to the petitioner to examine the said three official witnesses at his own responsibility and accordingly, the impugned order dated 25.10.2024 (Annexure P-15) to the extent that the evidence of the petitioner/plaintiff has been closed, is set aside and the present petition is partly allowed with the following directions:-

- (i) The petitioner would deposit an amount of Rs.9,000/- on or before 20.12.2024 i.e., the date fixed before the trial Court and the said amount would be released by the trial Court to the defendants No.1, 2 and 4 in equal proportion.
- (ii) The petitioner is granted three effective opportunities to examine the said three official witnesses and due opportunity would also be granted to the respondents to cross-examine the witness/witnesses produced by the petitioner. In case the petitioner leads his evidence and deposits the amount on or



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before 20.12.2024, then the trial Court would record the evidence and proceed with the matter, in accordance with law.

(iii) It is made clear that in case the said amount is not deposited, then, the present petition would be deemed to have been dismissed.

4. It would be relevant to note here that no notice is being issued in the present case to the respondents as issuance of notice would unnecessarily delay the proceedings and would also entail expenses for the respondents to defend the present petition. However, in case, any statement made by the petitioner is found to be false/incorrect, then it would be open to the respondents to move an application for recalling the present order.

18.12.2024

D.Bansal

**(VIKAS BAHL)
JUDGE**

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