

CR-205-2025

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2025.PHHC.005398



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

(127)

CR-205-2025

Date of decision:- 15.01.2025

Gaganpreet Singh

... Petitioner

Versus

Barinder Singh Walia and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Ranjodh Singh Sidhu, Advocate for the petitioner.

SUVIR SEHGAL, J. (ORAL)

1. This petition has been filed under Article 227 of the Constitution of India for setting aside order dated 18.12.2024, Annexure P-4, passed by the learned Additional Civil Judge (Senior Division), Tarn Taran, whereby petitioner's evidence has been closed by order.
2. I have heard counsel for the petitioner and considered his submissions.
3. Plaintiff-respondent No.1 filed a suit for declaration to the effect that he be declared as owner to the extent of 1/5th share in a residential house and shop constructed on land in khasra No.295 out of khewat/khatoni No.402 as mentioned in Jamabandi for the year 2015-2016 of Abadi Rodupura, Tehsil and District Tarn Taran on the basis of natural succession and a WILL dated 16.02.1990 executed by his father, Sh. Gurcharan Singh, deceased. Upon being served, petitioner, who was arrayed as defendant No.2, appeared and contested the suit by filing a written statement, Annexure P-2. Issues were framed on 06.05.2024 and the proceedings were being adjourned for leading evidence by the defendants. Affidavits of some



witnesses were tendered and the proceedings were deferred to 18.12.2024 when the impugned order was passed. On the said date, Gaganpreet Singh, DW-3, was cross-examined, but as the defendants failed to tender the affidavit of any other witness, the Trial Court by the impugned order closed their evidence.

4. Undisputedly, petitioner has been remiss in leading evidence and despite availing eleven opportunities, he has examined three witnesses only. Onus of proving some of the issues is on the petitioner. In case, petitioner is not given an effective opportunity to lead the entire evidence, the cause is likely to be defeated. This Court is of the view that such an opportunity deserves to be granted.

5. Accordingly, petition is allowed. Impugned order dated 18.12.2024, Annexure P-4, is set aside. Petitioner is granted one effective opportunity to lead his entire evidence at his own responsibility, subject to deposit of cost of ₹10,000/- with Sahayta Charitable Welfare Society, Sector 15-B, Chandigarh, Account No.911010027828405, IFSC: UTIB0001518 in Axis Bank Sec.16, Chandigarh. Deposit of cost shall be a condition precedent to the grant of opportunity to the petitioner. Petitioner shall appear before the Trial Court on 22.01.2025 and the Trial Court would fix a day to enable the petitioner to produce his entire evidence at his own risk and cost.

(SUVIR SEHGAL)
JUDGE

15.01.2025
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No