

2025:PHHC:129615



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

**CR-1832-2018 (O&M)
Decided on:-17.09.2025**

Surinder Kaur

....Petitioner..

VS.

Vijay Kumar and ors.

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Amit Gupta, Advocate for
Mr. Chanakya Batta, Advocate,
for the petitioner.

None for the respondents.

HARKESH MANUJA J. (Oral)

1. Present revision petition has been preferred against an order dated 21.11.2017(Annexure P-6) passed by the Court of learned Civil Judge (Junior Division), Phillaur, whereby, the evidence of the petitioner-plaintiff was closed by Court order.

2. In the present case, the petitioner-plaintiff filed a suit for declaration; claiming herself to be in possession of the suit property being a co-sharer. The suit was filed on 25.05.2013. In response, separate written statements on behalf of respondents No.1 and 13 were filed on 30.09.2013 and 21.02.2014, respectively, followed by replication dated 10.03.2014. Issues were framed on 10.02.2015. Thereafter, on 21.09.2015 and 16.10.2015, no witness was got examined by the petitioner-plaintiff and file was thereafter called by the Court of ld. District Judge and was returned on

11.05.2017. Thereafter, PW-1-Kulwant Singh was examined on 24.08.2017; Satya Dev, Deed Writer, Nur Mahal was examined as PW-2 on 13.09.2017; the examination in chief of Sh. Harwinder Singh, Record Keeper, SDM Office, Phillaur was recorded on 29.09.2017, followed by his cross-examination on 12.10.2017 as PW-3 and the examination-in chief of PW-4 Surinder Kaur (plaintiff) herself was recorded on 12.10.2017. In the meanwhile, an application dated 13.09.2017 for depositing the diet money had been preferred on behalf of the petitioner-plaintiff for summoning of the following two witnesses:-

“a. Concerned Record Keeper of Tehsildar Officer Phillaur along with record of partition order dated 08.09.2010 case titled as “Vijay Kumar vs. Satya Devi” case No.981T/06 filed on 28.12.2016, decided on 08.09.2010.

b. Concerned Clerk of SDM office Phillaur along with record of appeal dated 06.08.2012 titled “Surinder Kaur vs. Vijay Kumar” R/o Village Dhani Pind, Tehsil Phillaur, District Jalandhar.

2.1 The diet money was deposited as per the direction issued by the learned Trial Court. Later, Mr. Mahender Singh, Nambardar, resident of Village Dhani Pind, Tehsil Phillaur, District Jalandhar could not be got examined because at the time of service of summons he was abroad. Remaining witness, namely, Avtar Chand, Deed Writer, Sub Tehsil Nur Mahal along with record of sale deed dated 05.06.1991, concerned clerk of Sub Registrar Office, Sub Tehsil Nur Mahal along with record of dastavej No.470 Bahi no.1, zild no.431 dated 17.06.1996 by Satya Devi wd/o Tirath Ram in favour of Surinder Kaur, concerned clerk of Sub Registrar Office, Sub Tehsil Nur Mahal along with record of dastavej no.389 bahi no.1, zild

no.309 dated 05.06.1991 by Satya Devi wd/o Tirath Ram in favour of Surinder Kaur and concerned Record Keeper of Tehsildar Office, Phillaur along with record of partition order dated 08.09.2010 could not be examined because they did not turn up into the witness box and the evidence of the petitioner-plaintiff was finally closed by Court order dated 21.11.2017 by the learned Trial Court. In evidence of defendants, two witnesses, namely, DW-1 Avtar Singh and DW-2 Pankaj Aggarwal were examined and the case was fixed for recording of their further evidence, however, the present petition came to be filed on behalf of the petitioner-plaintiff assailing the order dated 21.11.2017.

3. On 23.03.2018, this Court passed the following order:-

“Learned counsel states that the original file remained with the Lower Appellate Court from 26.08.2015 to 11.05.2017. He has made reference to orders dated 27.05.2016, 04.08.2016, 27.09.2016 and 10.11.2016 wherein zimini orders are passed by Civil Judge (Junior Division) Phillaur that original file has not been received.

Notice of motion for 01.05.2018.

Dasti only.

Meanwhile, trial Court shall adjourn the case beyond the date fixed by this Court.

It is made clear that this adjournment is only for a single date unless it is specifically extended.”

Since the aforementioned date, the present revision petition is pending for the purpose of effecting service upon the respondents, who are 34 in numbers and for the past almost 7 years, the service has not been completed, whereas, the suit before the learned Trial Court is not proceeding further.

3.1 The respondents-defendants, who are party to the suit, pending before the Id. Trial Court, however, despite the proceedings been stalled have never bothered to join the present proceedings and appear to be interested towards delay in the trial.

3.2 In such circumstances, once the proceedings in the suit have remained stalled for the past almost seven years, and the respondent-defendants obviously been aware of the pendency of the present revision petition, it may not be necessary, at this stage, to wait for the completion of service upon them considering the facts and circumstances of the case and the nature of the present proceedings.

4. On merits, it may be pointed out here that the present is not a case where the petitioner-plaintiff has not made any effort to get her evidence recorded. In the case in hand, besides getting herself examined-in-chief, the petitioner-plaintiff has already produced four witnesses. Besides it, she even deposited the diet money of the official witnesses detailed in the preceding part of the order. However, the remaining official witnesses could not be examined on account of their non-appearance, which was apparently beyond the control of the petitioner-plaintiff.

5. In such circumstances, in case the impugned order is allowed to stand, it would cause serious prejudice to the rights of the petitioner-plaintiff as she would be deprived of her valuable rights. Accordingly, order dated 21.11.2017 passed by the learned Trial Court, whereby, the evidence of the petitioner-plaintiff was closed, is set aside. Consequently, the present petition is allowed and the petitioner-plaintiff is permitted to examine the remaining summoned witnesses regarding which she had already deposited the diet money. The Id. Trial Court is requested to provide all kind of

necessary assistance in ensuring the presence of the official witnesses along with their records, in terms of Order 16 CPC.

6 It is made clear that the aforesaid order shall be subject to payment of costs of Rs.25,000/- to be paid by the petitioner with the Punjab State Legal Services Authority Disaster Relief Fund, Account No.44426937384, IFSC Code SBIN0014656, Branch Sector 68, SAS Nagar Mohali.

7 At this stage, it may be noticed here that in case the respondents-defendants find any mis-statement of facts or concealment of facts on the part of the petitioner-plaintiff in filing of the present revision petition, they shall be at liberty to approach this Court seeking recalling of the order passed in favour of the petitioner-plaintiff.

8. Pending applications, if any, also stand disposed of.

17.09.2025

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Whether speaking/reasoned:

Whether reportable:

Yes/No

Yes/ No

(HARKESH MANUJA)
JUDGE