



CR-926-2025

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

1.

CR-926-2025

Dhan Singh and another

... Petitioners

Versus

Savitri Devi and others

... Respondents

2.

CR-683-2025

Dhan Singh and another

... Petitioners

Versus

Savitri Devi and others

... Respondents

Date of decision : 14.02.2025

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Ashok Kumar Verma, Advocate and
Mr.Rahul Jain, Advocate
for the petitioners.

Mr.B.S. Beniwal, Advocate (through V.C.) and
Ms. Suman Beniwal, Advocate
for respondent no.1.

Mr.Jagdish Manchanda, Addl.A.G. Haryana
for respondents no.2 to 4.

VIKAS BAHL, J.(ORAL)

1. The present order shall dispose of two civil revision petitions

filed by the same petitioners against the same respondents with respect to

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two orders passed in the same suit.

2. CR-926-2025 has been filed challenging the order dated 29.01.2025 vide which the evidence of the petitioners-defendants no.4 and 5 has been closed by order. CR-683-2025 has been filed by the petitioners-defendants no.4 and 5 challenging the order dated 16.01.2025 vide which the application filed by the petitioners for taking the disputed thumb impression affixed on the original US-2 form already marked as Ex.P25 and for comparing the same with the standard thumb impressions of defendant no.4-Rishi Ram from a finger print expert has been dismissed.

3. A perusal of the paper book, moreso, the zimni orders would show that in the present case the evidence of the plaintiff was closed by order dated 01.08.2024 (reproduced at running page 9 of the CR-926-2025) and in the said order it was recorded that the respondent no.1-plaintiff had availed 30 effective opportunities to conclude her evidence yet she had not concluded the evidence and thus, the evidence of the respondent no.1-plaintiff was closed by order and the case was adjourned to 20.08.2024 for the evidence of the defendants. On 20.08.2024 since the Court was on leave, thus, the matter was taken up on 17.08.2024 and was thereafter adjourned to 04.09.2024 for the said purpose. It was noticed in the orders dated 04.09.2024 and 10.09.2024 that the bar had suspended the work and subsequently the case was adjourned to 25.09.2024, on which date, the respondent no.1-plaintiff had filed an application for leading additional evidence, which was allowed on 21.10.2024 and the said additional evidence was closed on 18.11.2024. Thus, effectively upto 18.11.2024, the

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petitioners-defendants no.4 and 5 had not been even given the first opportunity to lead their evidence.

4. Even on 18.11.2024 one witness of the petitioners-Shri Ram was present but his cross-examination was deferred as the Court time was over. Thereafter again on 27.11.2024, the said witness was present but his cross examination could not be effected because the State counsel was busy in another case. Even on 05.12.2024, the said witness was present but the cross-examination was not carried out. On 12.12.2024 the said witness Shri Ram as well as Dhan Singh were present and Local Commissioner was appointed to examine them and thereafter DW-1 was examined whereas the cross-examination of DW-2 was deferred as the Court time was over. On 07.01.2025 the cross-examination of DW-2 was again deferred as the Court time was over. Similar was the position on 09.01.2025.

5. On 16.01.2025 the petitioners had summoned one Patwari, who was present with the summoned record and on the same date, they had moved an application for taking the disputed thumb impression affixed on original US-2 form already marked as Ex.P-25 on record and for getting the same compared with the standard thumb impressions of defendant no.4-Rishi Ram from a finger print expert. It is the plea raised by the learned counsel for the petitioners that at that stage, the evidence of the petitioners was going on and it was necessary for them to examine a finger print expert in order to show that the petitioners had never earlier applied for allotment and the document US-2 form, which had been produced on record by the plaintiff, did not bear the thumb impression of the defendant no.4 and thus,

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the said evidence was necessary for the proper adjudication of the case. Learned counsel for the petitioners has submitted that the petitioners only wish to examine the handwriting expert and one witness and also tender documents.

6. The trial Court however vide impugned order dated 16.01.2025 dismissed the said application by primarily stating that the comparison of thumb impression was not relevant. Learned counsel for the respondent no.1 could not show as to how the said piece of evidence would not be relevant and was not ready to make a statement before this Court that they would not raise any plea before the trial Court with respect to an earlier application / allotment in favour of the petitioners. In the said circumstances, this Court is of the opinion that the said evidence is necessary for the proper and final adjudication of the case and at any rate, since at that stage the evidence of the petitioners-defendants no.4 and 5 was going on, thus, they should have been given full opportunity to lead their evidence. Accordingly, the order dated 16.01.2025 rejecting the said application is illegal and deserves to be set aside.

7. The petitioners were in the process of filing a revision petition against the order dated 16.01.2025 and had drafted the petition on 28.01.2025 however on 29.01.2025 the trial Court had closed the evidence of the petitioners even after noticing the fact that the petitioners had moved an application for grant of an adjournment on the ground that the revision petition had been filed to challenge the order dated 16.01.2025. Even the said order dated 29.01.2025 deserves to be set aside, inasmuch as, as has

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been detailed hereinabove, much time had been consumed by the respondent no.1-plaintiff in leading her evidence and even as per the order dated 01.08.2024, 30 effective opportunities were given to the respondent no.1-plaintiff to conclude her evidence. It is not in dispute that the issues in the present case were framed on 09.02.2021 whereas the evidence of the respondent no.1-plaintiff was closed by order on 01.08.2024 i.e., after a period of more than 3 years and 6 months. Even thereafter, the respondent no.1-plaintiff had moved an application for additional evidence on 25.09.2024 which was also allowed on 21.10.2024 and the evidence regarding the same was led upto 18.11.2024. On the other hand, the petitioners-defendants no.4 and 5 have not been afforded full and effective opportunities to lead their defence.

8. Keeping in view the abovesaid facts and circumstances, both the revision petitions are allowed and the impugned orders dated 16.01.2025 and 29.01.2025 are set aside with the following directions / observations:-

- i) The application filed by the petitioners for taking specimen thumb impressions of defendant no.4-Rishi Ram for comparison from finger print expert and examination of the said fingerprint expert by defendants no.4 and 5 is allowed and the petitioners would be granted two effective opportunities to examine the finger print expert.
- ii) The petitioners would also be given one effective opportunity to examine the other witness which the



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petitioners wish to examine. The petitioners would produce the said witness on the date to be given by the trial Court on 17.02.2025 and on the said date, the petitioners would examine the said witness.

iii)Due opportunity would be given to the respondent no.1 to cross-examine both the witnesses. It would be open to the petitioners to tender the documents at the time when the witnesses are examined.

(VIKAS BAHL)
JUDGE

February 14, 2025.
Davinder Kumar

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