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

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Date of decision:-24.02.2025

Smt. Indu Nagpal (since deceased) through her LRs

...Petitioners

Versus

Rajiv Hora and others

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Aditya Jain, Advocate,
Mr. Rahul Vohra, Advocate
for the petitioners.

SUVIR SEHGAL, J.(ORAL)

1. This revision petition has been filed under Article 227 of the Constitution of India for quashing orders dated 05.02.2025, Annexures P12 and P13 whereby an application filed by the petitioners/plaintiffs for summoning some revenue officials, has been dismissed.

2. Mr. Aditya Jain, counsel for the petitioners submits that after the evidence of the plaintiffs was closed by an order passed by the Trial Court on 02.07.2024, plaintiffs approached this Court by filing a revision petition. He states that by order dated 08.11.2024, Annexure P4, this Court set aside the said order and granted two effective



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opportunities to the petitioners to lead the entire evidence. Counsel asserts that petitioners appeared before the Trial Court, examined some witnesses and moved an application on 17.12.2024, Annexure P7, for summoning of Halqa Patwari and Clerk from the office of Tehsildar, Faridabad by way of additional evidence as diet money for their summoning had already been deposited on 26.10.2023. Counsel urges that Trial Court has erred in rejecting the application as examination of both the witnesses was vital for the just decision of the case.

3. I have heard counsel for the petitioners and considered his submissions besides examining the paper-book with his able assistance.

4. Plaintiffs filed a suit for declaration that Will dated 28.07.2020 is a forged document and the mutation entered on its basis is liable to be declared as null and void. They also sought a decree of declaration that sale deed dated 02.03.2021 executed in favour of the defendants No.6 to 8 is fictitious document and for permanent injunction restraining the defendants from alienating or disposing off the suit property. Suit is being contested by the defendants – respondents and on the basis of the pleadings of the parties, Trial Court framed issues vide order dated 30.09.2022, Annexure P2. Plaintiffs examined one witness, but his cross-examination could not be conducted and by order dated 02.07.2024, evidence of the plaintiffs was closed by Court order. Plaintiffs filed a revision petition before this Court, which was disposed off on 08.11.2024, Annexure P4, with the following directions:-

“(i) The petitioner shall ensure that the prosecution witness, namely Chirag, is present on the next date of hearing fixed before



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the Court below i.e. 19.11.2024, who shall be cross-examined by the counsel for the defendant.

(ii) The petitioner shall be granted two effective opportunities to plead his entire evidence.”

(iii) The petitioner shall remit cost of Rs.15,000/- to the defendant as compensation for the opportunity so granted to the petitioner/plaintiff for leading his entire evidence.

5. Plaintiffs appeared before the Trial Court and produced some witnesses. They filed an application, Annexure P7, for additional evidence, which has been declined vide order under challenge herein.

6. Evidence of the plaintiffs was closed by Court order dated 02.07.2024 and they challenged this order before this Court, but they failed to bring to the notice of this Court that they had deposited diet money for summoning of some witnesses. In any case, this Court by order dated 18.11.2024, Annexure P4, granted two effective opportunities to them to produce their complete evidence. It is not in dispute that the plaintiffs appeared before the Trial Court on 19.11.2024, 03.12.2024 and 17.12.2024 when they examined some witnesses. As the plaintiffs had been granted additional opportunities by this Court, there was nothing to stop them from producing all the witnesses at their own cost. No reason has been given by them as to why they failed to produce the two witnesses being sought to be produced by way of additional evidence. Mere deposit of diet money for summoning the said official witnesses prior to the closure of their evidence by Court order, is of no

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consequence. After the passing of the order, Annexure P4, by this Court, the responsibility to produce all the witnesses was that of the plaintiffs and in case they fail to examine some of the witnesses, which according to them are material, another opportunity does not deserve to be granted to them. This Court does not find any perversity or illegality in the orders passed by the Trial Court.

7. Finding no merit in the petition, it is dismissed with no order as to costs.

(SUVIR SEHGAL)
JUDGE

24.02.2025**Brij****Whether reasoned/speaking : Yes/No****Whether reportable : Yes/No**