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

(218)

CR-2328-2021

Date of Decision: - 20.01.2025

M/s Shri Nath Traders and another**....Petitioners****Versus****Harinder Singh****.....Respondent****CORAM : HON'BLE MR. JUSTICE VIKAS BAHL**

Present:- Mr. Lupil Gupta, Advocate,
for the petitioners.

Ms. Gurdeep Kaur, Advocate
for Mr. P.K. Ganga, Advocate
for the respondent.

VIKAS BAHL, J. (ORAL)

1. Present revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 31.08.2021 (Annexure P-8) passed by the Additional Civil Judge (Senior Division), Sirsa, vide which the application (Annexure P-3) filed by the petitioners for permission to lead additional evidence has been dismissed.

2. Learned counsel for the petitioners has submitted that at the time when the petitioners had filed a suit for recovery, petitioner No.1 was a proprietorship concern and petitioner No.2 was the proprietor. It is further submitted that the petitioners only wish to lead additional evidence on the point that there is a registered partnership deed dated



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28.03.2020, in order to show that the petitioner No.2 is in a partnership and the mother of petitioner No.2 is a sleeping partner. It is submitted that only the partnership deed, Form A and Form C with respect to the said partnership deed are sought to be produced in additional evidence. It is further submitted that since the said documents are executed subsequent to the filing of the suit, thus, the petitioners be granted one opportunity to lead additional evidence to prove the said documents. It is pointed out that the next date before the trial Court is 21.02.2025.

3. Notice of motion was issued by the Co-ordinate Bench of this Court on 12.10.2021 and it was ordered that in the meantime the final order be not passed.

4. In pursuance of the said notice of motion order, learned counsel for the respondent has appeared and has submitted that the application in question has been moved by the petitioners at the fag end of the trial and has further submitted that in case, any such additional evidence is produced by the petitioners, then, due opportunities should be granted to the defendant to rebut the said evidence and has further submitted that the petitioners should also be liable to pay cost to the respondent for delaying the proceedings.

5. Learned counsel for the petitioners in rebuttal has submitted that the delay in the proceedings primarily harms the present petitioners as it is their suit for recovery which is being delayed and has further submitted that the petitioners would pay reasonable costs to the respondent on account of the objection taken by the counsel for the



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respondent.

6. Keeping in view the above-said facts and circumstances, more so, the fact that the petitioners wish to bring on record the documents executed after filing of the suit and also in view of the fair stand taken by learned counsel for the petitioners as well as learned counsel for the respondent, the present revision petition is partly allowed and the impugned order dated 31.08.2021 (Annexure P-8) is set aside and the application filed by the petitioners for leading additional evidence is allowed. The petitioners would be granted one effective opportunity to lead the said additional evidence, subject to their paying the cost of Rs.5,000/- on or before the next date of hearing, which amount would be released by the trial Court in favour of the respondent-defendant.

7. The respondent would also be given liberty to cross-examine any witness produced by the petitioners in support of their additional evidence and would also be granted liberty to lead evidence to rebut the said additional evidence produced by the petitioners.

8. It is made clear that in case the said cost of Rs.5,000/- is not deposited by the petitioners on or before the next date of hearing, then, the present revision petition would be deemed to have been dismissed.

January 20, 2025
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No