

2025:PHHC:086842



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

116

CR-4231-2025 (O&M)
Date of decision: 16.07.2025

Residential Welfare Association

...Petitioner

Versus

Jeet Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Deepam Raghav, Advocate and
Mr. Sumit Singh, Advocate for the petitioner.

VIKAS SURI, J.

1. Prayer in the present revision petition under Article 227 of the Constitution of India instituted by petitioner/defendant No.3, is for setting aside the order dated 21.05.2025 (Annexure P-4) passed by learned Civil Judge (Junior Division), Faridabad, whereby evidence of the defendant Nos.1 to 3 has been closed by Court order.

2. Briefly stated, the petitioner-welfare association has been impleaded as defendant No.3 in a suit for permanent and mandatory injunction instituted by plaintiff/respondent No.1. The said suit was instituted on 20.03.2018 and after completion of pleadings, the issues were framed on 20.07.2019. The plaintiff/respondent No.1 availed numerous opportunities to conclude his evidence, which was closed vide order dated 20.12.2024. The case was thereafter deferred to 15.01.2025 for defendants' evidence. DW-1-Jitender Kumar was examined on



05.03.2025 to the extent of his examination-in-chief and on the request of learned counsel for the plaintiff, his cross-examination was deferred. On the adjourned date, the said witness could not come present and the proceedings were further deferred to 18.04.2025. On the said hearing, though, DW-1-Jitender Kumar was present for his cross-examination but the same was deferred at the request of learned counsel for the plaintiff. The proceedings were deferred to 22.04.2025 and last opportunity was granted for cross-examination of the aforesaid defendant witness as well as for remaining evidence of the defendants and whereafter the matter was further posted to 25.04.2025. At the request of petitioner/defendant No.3, the trial Court ordered issuance of summons to the witnesses of defendant No.3 for 21.05.2025, vide order dated 25.04.2025. On the adjourned hearing, the impugned order was passed whereby the evidence of defendant Nos.1 to 3 was closed by Court order.

3. Aggrieved by the aforesaid order, the petitioner has filed the instant revision petition.

4. Learned counsel for the petitioner-association prays that if one effective opportunity is granted to defendant No.3, it would adduce its entire evidence at own responsibility. Learned counsel for the petitioner has argued that the witnesses enumerated in the list of witnesses were summoned for 21.05.2025 and on the said date without ascertaining whether the said summons was served or not, the evidence of the petitioner along with other defendants has been ordered to be closed. It is further submitted that the learned trial Court was duty bound



to ensure the presence of the witnesses once the process for securing their attendance had been initiated.

5. I have heard learned counsel for the petitioner and with his able assistance perused the paper-book.

6. In view of the order proposed to be passed, notice is not being issued to the respondents as it would delay the proceedings besides entailing additional expense to the plaintiff/respondents.

7. During the course of arguments, learned counsel for the petitioner has made available the interim orders passed by the trial Court in the present case, commencing from 20.03.2018 to 27.05.2025. Learned counsel for the petitioner informs that the matter before the trial Court is now pending for 30.07.2025. Perusal of the zimni orders would show that the issues were framed on 20.07.2019 and the plaintiff has availed numerous opportunities to adduce his evidence from 16.09.2019 to 20.12.2024. It is also noticed that for about nearly two years, the Court proceedings were impacted on account of COVID-19 pandemic. Issuance of summons to the witnesses of defendant No.3 vide order dated 25.04.2025 is a matter of record. The presence of the said witnesses was sought to be secured for 21.05.2025. The impugned order dated 21.05.2025 does not record any observation regarding the service report of the summons issued to the witnesses of petitioner/defendant No.3.

8. It is well settled that every party must be afforded a fair opportunity to lead evidence in support of their pleadings. The Courts



are always inclined to adjudicate upon the merits of the case after taking evidence, admissible in law. Therefore, keeping in view the peculiar facts and circumstances of the present case, the impugned order would not be justified and the other side can always be compensated.

9. In view of the aforesaid, I am of the considered opinion that ends of justice would be adequately met if one effective opportunity is granted to the petitioner/defendant No.3 to conclude its entire evidence at own responsibility. No prejudice would be caused to the plaintiff/respondent No.1 in case the dispute between the parties is adjudicated after affording due opportunity to the petitioner/defendant No.3 to contest the same. The same would also be in the interest of justice.

10. Accordingly, the present revision petition is accepted and the impugned order dated 21.05.2025 (Annexure P-4) is modified to the extent noticed above subject to payment of Rs.10,000/- as costs, to be paid to the plaintiff/respondent No.1. The trial Court is directed to afford one effective opportunity to the petitioner/defendant No.3 to conclude its entire evidence on the date already fixed, which is stated to be 30.07.2025. It is made clear that failing to avail of the opportunity to lead evidence or pay costs in terms of this order, the petitioner/defendant No.3 would not be entitled to any further opportunity for the said purpose and the trial Court would proceed with the matter without this order having any bearing on the trial.

11. As the present revision petition is being disposed of in the



absence of the plaintiff/respondent No.1, liberty is granted to him to seek recalling of this order, if valid grounds for the same are made out.

12. The revision petition is disposed of in the aforesaid terms.

July 16, 2025
sumit.k

(VIKAS SURI)
JUDGE

Whether speaking/reasoned :	Yes / No
Whether Reportable :	Yes / No