



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-3301-2026

Date of decision: 21.04.2026

Bodh Raj (since deceased) through LRs

. . . . Petitioner

Vs.

Matish Kumar and others

. . . . Respondents

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Bhupinder Gupta and Mr. Rajat Sharma, Advocates,
for the petitioner.

DEEPAK GUPTA, J.

The present petition is directed against the order dated 05.03.2026 (Annexure P-16) passed by the learned Civil Judge (Senior Division), Pathankot, whereby the evidence of the plaintiff (*petitioner herein*) in Civil Suit No. CS-414-2020 titled 'Bodh Raj (through LRs) Vs. Matish Kumar' in a suit for mandatory and permanent injunction, has been ordered to be closed.

2. Learned counsel for the petitioner has assailed the impugned order primarily on the ground that the learned trial Court failed to consider the application (*Annexure P17*) filed by the petitioner for summoning of witnesses. It is further submitted that the petitioner had already examined two witnesses, namely PW1-Yog Raj and PW2-Sudesh Kumari. While PW2-Sudesh Kumari has been duly cross-examined, the cross-examination of PW1-Yog Raj was still pending. It is contended that despite this position, the learned trial Court proceeded to close the evidence of the plaintiff, except to the limited extent of permitting cross-examination of PW1-Yog Raj, which has resulted in serious prejudice to the petitioner.

3. On the other hand, a perusal of the record reveals that issues in the suit were framed on 22.07.2025 and thereafter the petitioner-plaintiff was afforded as many as 12 effective opportunities to lead his evidence. Despite the

grant of repeated opportunities, the petitioner failed to conclude his evidence. The impugned order further records that till the relevant date, even the list of witnesses had not been filed.

4. Before this Court, learned counsel for the petitioner fairly concedes that the list of witnesses was furnished at a belated stage. This is in clear deviation of the direction issued by the trial Court at the time of framing of issues, requiring the plaintiff to submit the list of witnesses within seven days. Such conduct reflects a lack of due diligence on the part of the petitioner in prosecuting the case.

5. In these circumstances, this Court finds that the learned trial Court cannot be faulted for exercising its discretion in closing the evidence of the plaintiff. The order does not suffer from any illegality or perversity warranting interference in exercise of supervisory jurisdiction.

6. However, it is equally well settled that procedural laws are handmaids of justice and not its mistress, and the Courts ought to adopt a pragmatic approach where valuable rights in immovable property are involved. Denial of an opportunity to lead material evidence may result in irreparable prejudice and defeat the cause of substantial justice.

7. Balancing the need for procedural discipline with the overarching requirement of doing complete justice between the parties, this Court deems it appropriate to grant a limited indulgence to the petitioner.

8. Accordingly, while upholding the impugned order, the petitioner is granted two effective opportunities to conclude his entire evidence, subject to the following conditions:

- The petitioner shall pay costs of ₹25,000/- to the respondents-defendants by way of demand draft.
- The petitioner shall ensure service of the witnesses mentioned in the list (Annexure P17) by taking dasti summons.
- Payment of the aforesaid costs shall be a condition precedent for the trial Court to fix a date for the evidence of the petitioner-plaintiff.

9. It is made clear that in case the petitioner fails to comply with the aforesaid conditions, this petition shall be deemed to have been dismissed without further reference to this Court.

10. The learned trial Court shall proceed in accordance with law and in the light of the directions issued herein. The petition stands disposed of accordingly.

21.04.2026

Vivek

(DEEPAK GUPTA)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>