

2026:PHHC:068085



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

CR-3730-2026

Date of Decision: 04.05.2026

MEHAR SINGH

...Petitioner

Versus

BABITA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Varun Veer Chauhan, Advocate
for the petitioner.

PARMOD GOYAL, J. (ORAL)

The present revision petition has been preferred under Article 227 of the Constitution of India by petitioner/plaintiff being aggrieved by impugned order dated 17.03.2026 (Annexure P-2), passed by learned Additional Civil Judge (Senior Division), Karnal whereby application filed by petitioner/plaintiff for leading additional evidence was dismissed.

2. It is worth noticing that the present petition was preferred by petitioner/plaintiff at the time when case was fixed for rebuttal evidence. Present is the third round of litigation before this Court in suit filed on 18.12.2008. Previously, petitioner/plaintiff had approached this Court vide CR-3305-2022 whereby petitioner/plaintiff was granted opportunity to lead evidence, subject to cost of Rs.5,000/- vide order dated 22.08.2022 (Annexure P-3) passed by this Court.

3. Again vide CR-551-2024 petitioner/plaintiff had approached this Court against order dated 19.04.2024 (Annexure P-4), passed by learned Civil Judge (Junior Division), Karnal whereby his application under Order

VI Rule 17 CPC was dismissed. This Court had permitted amendment in plaint, subject to cost of Rs.30,000/- and thereafter, the entire evidence was led by petitioner/plaintiff and the same was closed. Respondents also led their evidence and when the case was fixed for rebuttal evidence, present application seeking to examine the attesting witness-Saveshwar, of the agreement to sell by way of additional evidence was moved.

4. It is worth noticing that the said witness was duly examined by petitioner/plaintiff when respondents/defendants were *ex parte* before the learned Court of first instance. It is also not disputed that initially respondents/defendants were proceeded *ex parte*. The said *ex parte* order was set aside and respondents/defendants had joined the proceedings. Thereafter, due opportunities were granted to petitioner/plaintiff including for examining handwriting expert to compare signatures of respondent/defendant No.1 on agreement to sell with his admitted signatures. However, at no stage, petitioner/plaintiff had made any attempt to serve or examine the alleged attesting witness-Saveshwar who is sought to be examined now at this belated stage when case is fixed for rebuttal evidence. Throughout, petitioner/plaintiff has kept quite regarding the status of present witness and now is claiming that the said witness was untraceable earlier as he was in USA and now is in custody of police. Therefore, petitioner/plaintiff is wanting to examine him as he is an attesting witness.

5. However, in the present case, when the affirmative evidence was continuing at that stage, no effort was made to examine Saveshwar, either by bringing him before the Court or by summoning him at his known address. Failure to summon Saveshwar at the time of evidence of petitioner/plaintiff goes to show that the present application for additional

evidence is only an attempt on the part of petitioner/plaintiff to delay the proceedings without there being any justification. It is very strange that now at the stage of rebuttal evidence whereabouts of Saveshwar have been traced by petitioner/plaintiff who is real nephew of petitioner/plaintiff.

6. The judgment relied upon by learned counsel for petitioner/plaintiff titled as **K.K. Velusamy Vs. N. Palanisamy**, 2011 AIR SC (Civil) 1000, has no applicability in the facts and circumstances of the present case. No doubt substantive justice has to give way to strict principles of procedure and in a fit case the Court has power to allow additional evidence to do justice between the parties and to decide case effectively on merits. However, where parties are totally negligent and careless in such a situation, in the name of substantial justice, the other side cannot be put to inconvenience.

7. In the present case, as held above, petitioner/plaintiff has already availed due opportunity to lead his evidence in affirmative as well as by way of evidence on earlier occasion. Despite due opportunity petitioner/plaintiff has failed to examine most important witness i.e. attesting witness-Saveshwar on account of his own fault, therefore, no interference with the impugned order would be justified. Revision petition is without any merit, hence is dismissed.

8. Pending application(s), if any, is/are disposed of accordingly.

04.05.2026
chiranjeev

(PARMOD GOYAL)
JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No