

2026:PHHC:078577



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

126

CR-4201-2026

Date of decision :19.05.2026

HARSHIT SONI

... PETITIONER

VERSUS

SUCHITA VERMA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Himanshu Sharma, Advocate
for the petitioner.

PARMOD GOYAL, J. (ORAL)

1. The present revision petition has been preferred by the petitioner under Article 227 of the Constitution of India for setting aside of the impugned order dated 23.03.2026 (Annexure P-8), whereby the evidence of the defendants was closed by the learned Court of first instance, as well as order dated 10.04.2026 (Annexure P-9), whereby the application for furnishing list of witnesses was dismissed with costs of Rs.10,000/-.

2. In the present case, the facts are not much in dispute. The respondents-plaintiffs had filed a suit for possession along with consequential relief of permanent injunction on 07.10.2020 before the learned Civil Judge, Gurugram. Thereafter, petitioner-defendants duly appeared and filed written statement. Issues were framed, and the plaintiff's evidence was thereafter concluded.

3. Subsequently, the case was fixed for defendants' evidence on 16.11.2023. During the pendency of the defendants' evidence, the defendants

moved an application under Order VII Rule 11 CPC seeking rejection of the plaint; however, the said application was dismissed vide order dated 02.08.2024.

4. It is also not in dispute that from 16.11.2023 till passing of the order dated 23.03.2026, the defendants had duly availed as many as 11 opportunities to conclude their evidence. However, till 23.03.2026, only one witness, namely DW-1, had been examined by the defendants. It is further not in dispute that till 23.03.2026, no list of witnesses had been filed by the defendants. The learned trial Court, while passing the impugned order dated 23.03.2026, duly noticed that on the previous date of hearing i.e. on 08.12.2025, last opportunity to conclude the defendants' evidence was granted, subject to payment of costs of Rs.1,000/- to be deposited in DLSA by the defendants. It is also pertinent to notice that the ad valorem Court fee, which had been ordered to be filed vide order dated 07.08.2024, was filed by the plaintiff on the said date i.e. 08.12.2025.

5. From the above-noted facts, it is clearly made out that the defendants were fully aware that they have already availed numerous opportunities and had been specifically put to notice to conclude their evidence on the date fixed i.e. 23.03.2026, subject to payment of costs of Rs.1,000/-. However, on 23.03.2026, the learned trial Court noticed that till 3:30 p.m., no evidence was produced by the defendants and when learned counsel for the defendants was asked to lead defence evidence, at that stage, prayer for adjournment was made, which was strongly opposed on behalf of plaintiff.

6. The learned trial Court, after noticing the conduct of the defendants in availing as many as 11 opportunities, filing an application under Order VII Rule 11 CPC at a belated stage i.e. during the stage of defendants' evidence, and repeatedly changing and engaging different counsel during the course of trial,

came to the conclusion that grant of any further opportunity was not justified. Accordingly, the evidence on behalf of the defendants was closed at about 3:30 p.m., as recorded in the order dated 23.03.2026. Subsequently, at about 4:00 p.m., the learned counsel for the defendants appeared and moved an application on behalf of defendant No.2 for summoning of witnesses. This was done despite the fact that the Reader as well as the learned Presiding Officer had already conveyed that the defendants' evidence stood closed by Court order after grant of sufficient opportunities.

7. The learned trial Court had further noticed in its order dated 23.03.2026 that, upon this, the learned counsel for the defendants started blaming the Court by asserting that injustice was being done to the defendants. He further claimed that he had a right to seek adjournment and he had been newly engaged counsel. The Court further observed that the conduct of the defendants clearly reflected that they were merely watching the proceedings without taking effective steps and were deliberately causing delay in adjudication of the plaintiff's suit.

8. Thereafter, an application for summoning witness was moved on behalf of the defendants. The application under Order XVI Rules 1 and 2 CPC for summoning of witnesses was adjourned for consideration to 06.04.2026 and ultimately the same was dismissed vide order dated 10.04.2026 with costs of Rs.10,000/-.

9. The manner in which the defendants have conducted the proceedings before the learned Court of first instance is highly condemnable and cannot be appreciated. Courts grant adjournments and accommodate counsel(s), keeping in view the practical difficulties faced in discharging their professional

duties. However, such accommodation on the part of the Court cannot be asserted as a matter of right by counsel as per their own convenience and liking.

10. Adjournments and accommodations are generally granted by Courts to advance the ends of justice and upon showing sufficient cause, and not as per the whims and fancies of a party or its counsel. It is wholly unacceptable that counsel fails to appear before the Court till 3:30 p.m. and keeps the Court as well as the opposite party waiting.

11. It is the duty of counsel to appear when the case is called. In case the counsel is engaged before another Court or is prevented by any justifiable reason, appropriate arrangements ought to be made to inform the Court and seek a pass over or an appropriate accommodation either for adjournment or for taking up the matter after some time needs to be taken. However, there is no vested right in a party or counsel to remain absent and thereafter insist upon an adjournment as a matter of right.

12. Courts, in order to ensure substantial justice between the parties, are generally slow in passing harsh orders unless compelled to do so by the conduct of the litigating party. In the present case, the learned trial Court rightly dismissed the application under Order XVI Rules 1 and 2 CPC for summoning of witnesses, preferred on 23.03.2026, with costs of Rs.10,000/-. The order dated 10.04.2026 is neither erroneous nor perverse as no application for summoning witnesses at belated stage and after closure of evidence of defendant was maintainable.

13. The facts of the case and conduct of the defendants in the present case was such that no other order could have been passed upon the said application. The defendants evidence had been continuing since 16.11.2023 and

as many as 11 opportunities had already been availed by them. They had also been specifically put to notice that the opportunity granted for 23.03.2026 would be the last opportunity and that too subject to payment of costs of Rs.1,000/-. This clearly shows that the defendants were taking undue advantage of the Court's indulgence, which had repeatedly granted opportunities in the interest of substantial justice.

14. As per Order XVI Rule 1 CPC, the list of witnesses is required to be filed within 15 days of framing of issues. Though the said provision is directory in nature and Courts generally permit filing of the list of witnesses even at a belated stage, it does not mean that a party has a vested right to file such list at any stage according to its own convenience.

15. In the present case, the list of witnesses was filed only after closure of the defendants evidence by Court order and after availing more than 11 opportunities. Therefore, the application under Order XVI Rules 1 and 2 CPC was not maintainable and was rightly dismissed with costs, as the same was merely an attempt to overreach the Court and cause delay in the proceedings.

16. Now coming to the order dated 23.03.2026, even though the conduct of defendant Nos.1 to 3 and their counsel is not appreciable before the Court on the said date, this Court finds that, in the interest of justice, one effective opportunity deserves to be granted to the defendants, subject to payment of exemplary costs, as the opposite party can be adequately compensated by way of costs in the peculiar facts and circumstances of the present case so that matter can be decided on merits.

17. Accordingly, it is directed that the entire evidence of the defendants shall be concluded on 02.07.2026, subject to payment of costs of Rs.1,50,000/-.

Out of the said amount, Rs.75,000/- shall be paid to the plaintiff, whereas the remaining amount of Rs.75,000/- shall be deposited with the District Legal Services Authority (DLSA), Gurugram.

18. It is made clear that the entire evidence of the defendants shall be concluded on 02.07.2026 without fail, and no further opportunity whatsoever shall be granted to the defendants for concluding their evidence. The defendants shall ensure the presence of all their witnesses at their own responsibility. It is further directed that the defendants shall bring to the notice of the learned Court of first instance, fact regarding payment of the aforesaid costs as well as the presence of witnesses at 10:30 a.m. on 02.07.2026.

19. With the aforesaid observations and directions, the present revision petition stands disposed of.

20. Pending miscellaneous application(s), if any, also stand(s) disposed of accordingly.

19.05.2026
manoj

(PARMOD GOYAL)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No