



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

120

**CR-4509-2026 (O&M)
Date of decision:27.05.2026**

VED PRAKASH

...PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Yowan Sharma, Advocate
for petitioner (through video conference).

PARMOD GOYAL, J. (ORAL)

Present civil revision petition has been preferred under Article 227 of the Constitution of India by petitioner-plaintiff No.1 for setting aside impugned order dated 20.02.2026 (Annexure P-4) passed by learned Civil Judge (Junior Division), Kalka in Civil Suit No.54 of 2016, whereby the evidence of plaintiffs was closed and application under Order XVI Rules 1 and 2 read with Section 151 of Code of Civil Procedure, 1908 ('CPC') for summoning the official witnesses along with relevant record was dismissed.

2. Admittedly, in present case, suit for declaration was preferred by plaintiffs in the year 2016. Thereafter, issues were framed vide order dated 16.09.2025 and plaintiffs had availed fourteen effective opportunities over the period of five months for completing their evidence. However, except for tendering affidavit of one of the witnesses i.e. petitioner-plaintiff No.1, no steps were taken by plaintiffs to lead their evidence. On 17.02.2026, prior to 20.02.2026, plaintiffs were put to caution by the learned

Court of First Instance and cost of Rs.500/- was imposed granting last opportunity to lead evidence. Learned Court of First Instance gave clear directions to plaintiffs to come present at 10:00 a.m. for conclusion of evidence, however, despite the said direction, the witness, whose affidavit was filed on earlier occasion, had not come present and no evidence was led on behalf of petitioner-plaintiff No.1. Rather, an application under Order XVI Rules 1 and 2 read with Section 151 of CPC for summoning official witness along with relevant record was moved.

3. From the orders passed by learned Court of First Instance, it is clearly made out that petitioner-plaintiff No.1 himself is at fault for present situation. The matter is old one and has been pending for last ten years. Plaintiffs were put to caution by the learned Court of First Instance and even cost was imposed. Aforesaid application do not give a right to petitioner-plaintiff No.1 to lead evidence as per his liking.

4. Application under Order XVI Rules 1 and 2 of CPC has to be filed within 15 days of framing of issues, however, in the interest of justice, Courts, sometimes, condone the delay in filing of said application and permit the same to summon the witness as prayed by plaintiff or defendant, however, this does not vest a right in the party to move application as per their liking and delay the decision of the case. The right to move the application under Order XVI Rules 1 and 2 of CPC comes to an end after 15 days of framing of issues, however, in a fit case, delay in filing the said application can be condoned by the Court and witnesses can be summoned even if application is filed after 15 days.

5. In present case, abovesaid application has been filed after availing fourteen effective opportunities, even then not a single witness has been examined and only one witness has come present and has filed his affidavit. The said witness also failed to come present for his cross-examination on the date fixed.

6. In these circumstances, no one except for petitioner-plaintiff No.1 is at fault. However, even though petitioner-plaintiff No.1, who is at fault, Courts generally avoid deciding matters on account of procedural lapses made by the parties, where other side can be compensated with cost. Courts can grant opportunity despite fault on the part of parties, however, cost has to be imposed keeping in view of conduct, opportunities availed and as a deterrent to other litigants so that Court proceedings are not taken casually and lightly.

7. Keeping in view facts and circumstances of the present case and in the interest of justice, one opportunity is being granted to petitioner-plaintiff No.1 to lead and conclude his entire evidence on next date fixed before learned Court of First Instance, subject to payment of cost of Rs.1,00,000/-, out of which Rs.50,000/- shall be payable to respondents-defendants No.1 to 25 and Rs.50,000/- shall be deposited with District Legal Services Authority, Panchkula, Haryana. The opportunity shall be available to petitioner-plaintiff No.1 on prior payment of cost before the learned Court of First Instance on date fixed. Entire evidence be concluded at own responsibility on date fixed. No further opportunity to petitioner-plaintiff No.1 shall be given.

8. Present petition is disposed of in above terms.
9. Pending application(s), if any, stand disposed of.

(PARMOD GOYAL)
JUDGE

27.05.2026
Sunil Chander

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>