

(2012) 09 P&H CK 0369

High Court Of Punjab And Haryana At Chandigarh

Case No: CR No. 4959 of 2012 (O and M)

Gurjit Kaur and Others

APPELLANT

Vs

Mehma Singh and Others

RESPONDENT

Date of Decision: Sept. 19, 2012

Acts Referred:

- Constitution of India, 1950 - Article 227

Hon'ble Judges: L.N. Mittal, J

Bench: Single Bench

Advocate: D.S. Gurna, for the Appellant;

Final Decision: Allowed

Judgement

L.N. Mittal, J.

CM No. 23212-CII of 2012

1. The application is allowed and Annexure P-3 is taken on record, subject to all just exceptions.

CR NO. 4959 OF 2012

In this revision petition filed under Article 227 of the Constitution of India, plaintiffs have assailed order dated 18.11.2010 passed by learned Additional Civil Judge (Senior Division), Dera Bassi, thereby closing evidence of the plaintiffs by Court order.

2. I have heard Learned Counsel for the petitioners and perused the case file.

3. Counsel for the petitioners prayed that only one more opportunity may be granted to the petitioners for their remaining evidence at own responsibility.

4. I have carefully considered the aforesaid prayer. Perusal of the zimini orders of the trial Court as placed on record reveals that the plaintiffs were granted eleven

opportunities in all for their evidence, but on a couple of dates of hearing, after recording examination-in-chief of some witnesses of the plaintiffs, their cross-examination was deferred on the request of counsel for defendants. However, on first six dates of the hearing, no witness of the plaintiffs was present and on the date of impugned order i.e. on 18.11.2010, cross examination of two witnesses, who were present, was recorded and no other witness was present. On some other dates also, except the witnesses whose examination-in-chief was recorded, other witnesses were not present. However, since some of the adjournments were sought by counsel for the defendants and also because petitioners No. 2 and 3 are minors and petitioner No. 1 is their widowed mother, I am of the considered opinion that ends of justice would be met if another opportunity is granted to the petitioners for their remaining evidence at own responsibility, subject to payment of heavy costs. The petitioners have to be subjected to heavy costs, also because initially they filed application in the trial Court itself for recall of the impugned order and after more than one and half years, withdrew the said application without adjudication thereof on merits and then filed this revision petition resulting in further delay in the disposal of the suit.

5. I intend to dispose of the instant revision petition without issuing notice to respondents/defendants so as to avoid further delay in disposal of the suit and also to save the respondents of the expenses they may have to incur in engaging counsel for the revision petition if notice thereof is issued to them. Accordingly, the instant revision petition is allowed. Trial Court is directed to give only one more effective opportunity to the petitioners for their remaining evidence at own responsibility, subject to payment of Rs. 7,500/- (rupees seven thousand five hundred) as costs precedent.