



CR-6095-2017

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(107)

CR-6095-2017

Date of Decision: - 08.09.2025

Kamlesh Kumari and others

...Petitioners

Versus

Bhim Singh and another

....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Sanjay Majithia, Senior Advocate, with
Mr. Sumit Sinha, Advocate
for the petitioners.

VIKAS BAHL, J. (ORAL)

1. Present civil revision petition has been filed under Article 227 of the Constitution of India for quashing of impugned order dated 09.08.2017 passed by the Civil Judge (Junior Division), Mukerian whereby the application for recalling of the order dated 16.01.2017 vide which the evidence of petitioners has been closed has been dismissed.

2. On 11.09.2017, a Co-ordinate Bench of this Court was pleased to pass the following order: -

*“Present: Mr. Shailendra Sharma, Advocate,
for the petitioners.*

Learned counsel for the petitioners contends that the evidence of the defendants was closed by order of the Court on 16.1.2017 after granting four opportunities and application for recalling of the same was dismissed by the trial Court on 9.8.2017. In the meantime,



defendants were proceeded against ex parte on 22.2.2017 and the said order was only recalled in the month of May, 2017. In view of aforesaid, the petitioners were sufficiently prevented from approaching this Court against the order dated 16.1.2017. Learned counsel craves indulgence of this Court for grant of one opportunity for leading defendants' evidence subject to payment of adequate costs.

Notice of motion for 1.12.2017.

Trial Court is directed to adjourn the proceedings beyond the date fixed by this Court.

11.09.2017”

3. Learned senior counsel for the petitioners has submitted that in the present case, the issues were framed on 23.05.2013 and the plaintiff/respondent No.1 was granted as many as 15 effective opportunities to conclude his evidence and it was only on 25.11.2016, the plaintiff after availing the said opportunities, had closed his evidence, which fact is apparent from the zimni order dated 07.11.2016, which has been reproduced at page 6 of the present petition. It is further submitted that even as per zimni order dated 16.01.2017, reproduced at page 7 of the petition, only four effective opportunities were granted to the petitioners to conclude their evidence. It is stated that the evidence of the petitioners was closed by order on 16.01.2017 and the petitioners had filed an application for recalling of the said order which was dismissed vide order dated 09.08.2017 and thereafter, the petitioners had approached this Court. It is further pointed out that, as has been noted in the impugned order, the petitioners were proceeded ex-parte also on 22.02.2017, which order was recalled in the month May, 2017. It is submitted that in case the



petitioners are not granted opportunities to lead their evidence, then, irreparable loss would be caused to them and thus a prayer has been made that two effective opportunities be granted to the petitioners to conclude their evidence at their own responsibilities. It is further submitted that for the inconvenience caused to the plaintiff/his legal representatives, the petitioners are ready to pay adequate costs.

4. A perusal of the paper-book would show that that it was reported by the registry that respondent No.1 had died and respondent No.2 was out of country and the case was repeatedly adjourned for their service. LRs of respondent No.1 had not been brought on record till date although the matter has been pending since 2017.

5. Learned senior counsel for the petitioners has submitted that respondent No.2 is a co-defendant with the petitioners and is not required to be served. It is further submitted that since there is an interim order in favour of the present petitioners, thus, it is apparent that the respondent No.1 is aware of the pendency of the present revision petition.

6. At any rate, this Court is of the opinion that service upon legal representatives of respondent No.1 would not be necessary in view of the order which this Court proposes to pass, which would balance the equities and any further adjournment would only result in delaying the suit filed by respondent No.1/plaintiff.

7. Keeping in view the above-said facts and circumstances, this Court is of the opinion that the petitioners should be granted two effective opportunities to complete their entire evidence, at their own responsibility

**CR-6095-2017****-4-**

and accordingly, the present revision petition is partly allowed and the order dated 16.01.2017 vide which the evidence of the petitioners has been closed by order, as well as the order dated 09.08.2017, to the extent that the evidence of the petitioners has been closed by order are set aside and the petitioners are granted two effective opportunities, at their own responsibility, to conclude their entire evidence and the same would be subject to the petitioners depositing an amount of Rs.25,000/- as costs, within a period of two weeks from today by moving an application before the trial Court. The trial Court would release the said amount in favour of legal representatives of respondent No.1.

8. It is made clear that in case, the petitioners do not deposit the costs of Rs.25,000/- within the aforesaid period, the present revision petition would be deemed to have been dismissed.

9. It would be open to legal representatives of respondent No.1 to move an application for recalling the present order in case, any statement made before this Court is found to be false/incorrect.

September 08, 2025*naresh.k***(VIKAS BAHL)
JUDGE**Whether reasoned/speaking?
Whether reportable?Yes/No
Yes/No