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

(124)

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Date of Decision: - 21.01.2025

Bavandeep Singh and another**....Petitioners****Versus****Kulwinder Kaur alias Bholi and others****.....Respondents****CORAM : HON'BLE MR. JUSTICE VIKAS BAHL**

Present:- Mr. Ishan Dogra, Advocate,
for the petitioners.

VIKAS BAHL, J. (ORAL)

1. Present revision petition has been filed under Section 115 read with Article 227 of the Constitution of India for quashing and setting aside of order dated 05.12.2024 (Annexure P-2) passed by the 1st Appellate Court. Challenge is also to the order dated 15.04.2024 as well as 16.07.2024 passed by the Civil Judge (Junior Division), Ambala.
2. Learned counsel for the petitioners has submitted that the petitioners are limiting their prayer in the present case for grant of one opportunity to conclude their entire evidence.
3. In view of the facts and circumstances of the present case detailed hereinafter, the said prayer of the petitioners cannot be granted.
4. It is not disputed that the suit was filed by the petitioners on 24.08.2016 and thus, the said suit is a very old suit and has been pending



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since more than eight years. On a pointed query raised by this Court, learned counsel for the petitioners has fairly submitted that the entire defence evidence has also been completed. The case is now listed for 22.01.2025 for rebuttal evidence and arguments and any indulgence by this Court would further delay the proceedings and would also cause prejudice to the defendants as they have already led their entire evidence. Moreover, a perusal of the impugned order as well as the zimni orders would show that 18 opportunities had been granted to the petitioners to lead their entire evidence however they could not conclude their evidence. On several dates, it had been observed by the Court that no further opportunity would be granted to the petitioners to lead further evidence and in case they failed to produce/conclude their evidence, then, their evidence would be closed by order. Reference can be made to the order dated 24.11.2023, which is reproduced as under: -

“Present: Sh. Ishaan Dogra, counsel for plaintiffs.

Sh. Tejinder Singh Kamboj, counsel for defendant No.1.

Sh. Seo Ram, counsel for defendant No.2.

File again put up after lunch.

Learned counsel for the plaintiffs has appeared and suffered a statement to the effect that he will conclude the plaintiffs evidence on the next date of hearing. It is already 03:00 P.M.

Heard. In the interest of justice, a last opportunity is granted to conclude the deferred witnesses namely PW1 Bavandeep Singh, PW2 Sukhvinder Singh, PW3 Surta Ram and PW4 Hardev Singh, for the next date of hearing. Heard and allowed. Now, to come up on 01.12.2023, for entire remaining evidence of plaintiffs, at own responsibility. It is made clear that no further opportunity will be granted to conclude the deferred witnesses. If on next date evidence of



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the deferred witnesses not concluded, then evidence will be marked nil on next date and deemed to be closed by Court order.

Dated:24.11.2023”

5. Even thereafter sufficient opportunities were granted by the trial Court with the clear indication that no further opportunity would be granted to the petitioners but they did not complete their evidence. On 02.02.2024, the trial Court was pleased to pass the following order: -

Present: Sh. Ishaan Dogra, counsel for plaintiffs.

Sh. Tejinder Singh Kamboj, counsel for defendant No.1.

Sh. Vipul Singh, counsel for defendant No.2.

Case file again taken up.

PW3 Surta Ram is present and his cross-examination is recorded completely.

No other PW is present. Adjournment sought. Heard and allowed. On request, case is adjourned to 15.02.2024, for remaining entire evidence of plaintiffs, at own responsibility, subject to the last opportunity.

It is made clear that no further opportunity will be granted to conclude the plaintiff's evidence. If on next date evidence of the not concluded, then evidence will be deemed to be closed by Court order on the date fixed.

Dated:02.02.2024 ”

6. Although, zimni order dated 15.02.2024 has not been annexed with the petition but the order subsequent to the same i.e. 15.04.2024 (Annexure P-4) is on record and the same specifically records that 18 effective opportunities had been given to the petitioners to conclude their evidence.

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7. It would also be relevant to note that instead of immediately challenging the order dated 15.04.2024, the petitioners moved an application under Section 151 CPC for recalling the witnesses, which was also dismissed on 16.07.2024 and in the said order, it was reiterated that the plaintiffs had undertaken to complete the entire evidence on 01.12.2023, which has not been done. The petitioners even at that stage did not challenge the said order dated 15.04.2024 and instead had filed an appeal, which was also dismissed on 05.12.2024 by observing that the same was not maintainable. It is thereafter that the present revision petition has been filed.

8. From the above-said facts, it is apparent that the petitioners had been given sufficient opportunities to conclude their evidence and the present suit is a very old suit and the evidence of the defendants has already been completed and thus, the present revision petition being meritless, deserves to be dismissed and is accordingly dismissed.

January 21, 2025
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	No