

2025:PHHC:079604



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

115

CR-3714-2025 (O&M)

Date of decision: 02.07.2025

Inder Raj Gandhi and others

...Petitioners

Versus

Inder Malik (since deceased) through his LRs

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Sandeep Kumar, Advocate for the petitioners.

VIKAS SURI, J.

1. Prayer in the present revision petition under Article 227 of the Constitution of India is for setting aside the order dated 18.04.2025 (Annexure P-7) passed by learned Additional Civil Judge (Senior Division), Panchkula, whereby evidence of the defendant/petitioners evidence has been closed by Court order.

2. Briefly stated, plaintiff/respondent-Inder Malik filed a suit for recovery of Rs.3 lakh along with pendent-lite and future interest @ 18% per annum against the defendant/petitioners. The said suit was filed on 02.01.2018 and after completion of pleadings, the issues were framed on 16.01.2020. The plaintiff/respondent availed numerous opportunities to conclude his evidence, which was closed vide order dated 18.10.2024. However, PW-1 was cross-examined on the subsequent hearing on 28.01.2025. The case was posted to 27.02.2025 for defendants'



evidence, however, on the said date, no substantial hearing took place as the District Bar Association, Panchkula, was observing 'no work day'. On the third effective opportunity afforded to the defendant/petitioners to lead their evidence, last opportunity was granted. The defendant/petitioners were cautioned that failing to conclude the evidence on the next date of hearing, their evidence shall be deemed to be closed by Court order. Thereafter, on the subsequent hearing, petitioner Inder Raj Gandhi (DW-1) was examined-in-chief but his cross-examination was deferred at the request of learned counsel for the plaintiff. Though the proceedings were deferred for cross-examination of DW-1, however, the defendants' evidence was closed by Court order, except for the aforesaid cross-examination, vide order dated 18.04.2025.

3. The aforesaid order has been assailed by way of the instant revision petition.

4. Learned counsel for the petitioners submits that since framing of the issues on 16.01.2020, the plaintiff was granted 14 effective opportunities to conclude his evidence. It is further pointed out that even after the 11th effective opportunity granted to the plaintiff, another opportunity was granted subject to costs, which was availed by the plaintiff. Finally, the evidence of the plaintiff was closed by Court order on 18.10.2024. Despite being mindful of the fact that the plaintiff's evidence was closed by Court order, the trial Court on a subsequent hearing, permitted the plaintiff/respondents to suffer a statement closing evidence of the plaintiff and reserving the right to produce rebuttal



evidence. On the other hand, defendant/petitioners have not been granted proper and sufficient opportunity to lead their evidence. It is further urged that on the third effective opportunity itself, last opportunity was granted to the defendant/petitioners to conclude their entire evidence, failing which the defendants' evidence was to be closed by Court order on the subsequent hearing. Hence, the impugned order was passed on 18.04.2025. Learned counsel for the petitioners has further submitted that the defendants have been prejudiced for not having been afforded due and proper opportunity to adduce their evidence in support of their case. Learned counsel for the petitioners, thus, prays for only one effective opportunity to conclude their entire evidence.

5. I have heard learned counsel for the petitioners and with his able assistance perused the paper-book.

6. In view of the order proposed to be passed, notice is not being issued to the respondents as it would delay the proceedings besides entailing additional expense to the plaintiff/respondents.

7. Admittedly, the plaintiff had filed a suit for recovery of Rs.3 lakh on 02.01.2018 and the issues were struck on 16.01.2020. The plaintiff was granted the first opportunity to lead evidence on 30.01.2020. It is evident from the record that the plaintiff/respondents concluded their evidence by availing fourteen effective opportunities from 30.01.2020 to 28.01.2025. It is also noticed that costs were also imposed upon the plaintiff for availing further opportunity for leading evidence. The evidence of the plaintiff was closed by Court order. On



the other hand, first effective opportunity available with the defendants to lead their evidence was on 17.03.2025, whereafter the hearing was deferred to 27.03.2025. On the subsequent hearing thereto, on 09.04.2025, last opportunity was afforded for adducing evidence of the defendants at own responsibility, failing which the same would be deemed to be closed by Court order. On 18.04.2025, DW-1 was examined-in-chief through Court Commissioner but his cross-examination was deferred at the request of learned counsel for the plaintiff. Though the hearing of the matter stood deferred for cross-examination of DW-1, yet the evidence of the defendants was closed by Court order except for the cross-examination of DW-1. One can appreciate the endeavour of the trial Court to expedite the proceedings for timely culmination of the trial, however, in the present case, the proceedings were deferred for cross-examination of DW-1 and in such a situation, the request for leading further evidence ought to have been favourably considered subject to costs. The position would have been otherwise, had the proceedings progressed further other than for cross-examination of the defendants' witness.

8. In view of the aforesaid, I am of the considered opinion that ends of justice would be adequately met if one effective opportunity is granted to the defendant/petitioners to conclude their entire evidence at own responsibility. The plaintiff/respondents can be compensated with costs and no prejudice would be suffered by them (LRs of plaintiff) in case the dispute between the parties is adjudicated after affording due



opportunity to the defendants to contest the same. The same would also be in the interest of justice.

9. Accordingly, the present revision petition deserves to be accepted and resultantly, the impugned order dated 18.04.2025 (Annexure P-7) is set aside subject to payment of Rs.20,000/- as costs, to be paid to the plaintiff-respondents. The trial Court is directed to afford one effective opportunity to the defendant/petitioners to conclude their entire evidence on the date to be fixed by the trial Court. It is made clear that failing to avail of the opportunity to lead evidence or pay costs in terms of this order, the defendant/petitioners would not be entitled to any further opportunity for the said purpose and the trial Court would proceed with the matter without this order having any bearing on the trial.

10. As the present revision petition is being disposed of in the absence of the plaintiff/respondents, liberty is granted to them to seek recalling of this order, if valid grounds for the same are made out.

11. The revision petition is disposed of in the aforesaid terms.

July 02, 2025
sumit.k

(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes / No
Whether Reportable : Yes / No