



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(111)

CR No. 3152 of 2025 (O&M)

Date of Decision: 25.07.2025

Ashok Kumar Juneja

...Petitioners

Versus

Jarnail Singh (deceased) through his LRs

...Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Vijay Rana, Advocate
for the petitioner.

VIKRAM AGGARWAL, J (ORAL)

CM-14141-CII-2025

The application is allowed as prayed for subject to all just exceptions. Documents i.e., copies of zimni orders dated 25.11.2024, 14.01.2025, 17.01.2025, 28.01.2025, 21.02.2025, 13.03.2025, 03.04.2025, 28.04.2025, 14.05.2025, 03.07.2025, passed by the Court of Civil Judge (Jr, Division), Ludhiana, Annexure P-11, is taken on record.

Main case

The instant revision petition, preferred under Article 227 of the Constitution of India, assails order dated 21.10.2024 (Annexure P-10), passed by the Court of Civil Judge (Jr. Division), Ludhiana, vide which application moved by the present petitioner/defendant under Order 17 Rule 3 of the Code of Civil Procedure, 1908 (for short 'CPC') for dismissal of the suit was rejected.

2. The facts, as emanating from the revision petition are that a suit for possession by way of redemption of mortgage of the disputed land (fully described in the plaint) situated at Model Town Road, Ludhiana was

instituted by the respondent-plaintiff (Jarnail Singh) against the petitioner-defendant (Ashok Kumar Juneja) (Annexure P-1).

3. After completion of pleadings of the parties, issues were framed on 15.03.2017. Thereafter, affidavit of one PW-Jasbir Singh was tendered in evidence on 16.03.2020 (Annexure P-3). He was partly cross-examined on 20.12.2022 (Annexure P-4). Thereafter, an application under Order 6 Rule 17 CPC (Annexure P-5) was moved for amendment of plaint on 16.01.2023. On a no objection having been given, the said application was allowed vide order dated 03.03.2023 (Annexure P-6). For, no further evidence was led by the plaintiff, vide order dated 18.12.2023 (Annexure P-7), the evidence of the plaintiff was closed. This led to the filing of an application (Annexure P-8) under Order 17 Rule 3 CPC by the petitioner/defendant for dismissal of the case under the said provision. The application was opposed by way of reply (Annexure P-9) in which it was stated that the evidence produced on file was sufficient and that the witness (PW-1-Jasbir Singh) had also been cross-examined by the defendant.

4. By way of the impugned order, the application was dismissed leading to the filing of the present revision petition.

5. I have heard learned counsel for the petitioner.

6. Learned counsel for the petitioner submits that the impugned order is not sustainable, for no evidence was led by respondent-plaintiff, and, therefore, the suit should have been dismissed under Order 17 Rule 3 CPC.

7. I have considered the submissions made by learned counsel for the petitioner and find the same to be devoid of merit. Order 17 Rule 3 CPC reads as under:-

“3. Court may proceed notwithstanding either party fails to produce evidence, etc.—Where any party to a suit to whom time has been granted fails to produce his evidence, or to cause the attendance of his witnesses, or to perform any other act necessary to the further progress of the suit, for which time has been allowed [the Court may, notwithstanding such default,---

(a) if the parties are present, proceed to decide the suit forthwith; or

(b) if the parties are, or any of them is, absent, proceed under rule 2.”

8. Concededly, one witness PW-1-Jasbir Singh had tendered his affidavit in examination in chief and he was cross-examined partly on 20.12.2022. Thereafter, he did not step into the witness box. The trial Court has rightly observed that the effect of the same would be considered at the time of the decision of the suit. The trial Court also did not err in holding that the power under Order 17 Rule 3 CPC was not required to be exercised. I do not, therefore, find any error in the said view, warranting interference.

In view of the above, I do not find any merit in the present revision petition and the same is accordingly dismissed.

Pending application(s), if any, shall also stand disposed of.

**(VIKRAM AGGARWAL)
JUDGE**

July 25, 2025

Rekha

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No