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

CR-5885-2022

Date of decision: 16.09.2025

Samad Baba Ram Dass Mandir Surjan Har Dera Udasi Rattia and another

...Petitioners

Versus

Prem Kumar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Arjun Lakhanpal, Advocate for the petitioners.

Mr. Akash Yadav, Advocate for

Mr. Naveen S. Bhardwaj, Advocate for the respondents.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 23.09.2022 (Annexure P-2) passed by the Additional Civil Judge (Senior Division), Ratia in Civil Suit bearing No.CS-359-2017 titled as “Samad Baba etc. Vs. Prem Kumar etc.” vide which oral evidence of the petitioners has been closed by order.

2. Learned counsel for the petitioners has submitted that the petitioners are the plaintiffs who had filed a suit for declaration to the effect that plaintiff No.1 is owner in possession of the land in question and the two shops constructed thereon, which are on rent and challenge had been made to lease deed dated 09.03.1987 propounded by the defendants. It is submitted that since it is the suit of the petitioners-plaintiffs, thus, delay in the



proceedings would primarily prejudice the petitioners. It is submitted that in the present case, as is apparent from the impugned order, examination-in-chief of PW1 and PW2 had been conducted and on 23.09.2022, it is the counsel for the respondents/defendants who had sought adjournment to cross-examine the said witnesses and it is on the said date that evidence of the petitioners was closed except for the purpose of cross-examination of PW1 and PW2. It is submitted that the suit, in the present case, was filed through Mahant Pritam Dass and plaintiff No.2 in the suit was Subhash and both the said Mahant Pritam Dass and Subhash had died during the pendency of the suit on account of which the plaintiffs could not lead evidence on certain dates. It is submitted that in case, the plaintiffs/petitioners are not given one effective opportunity to lead their entire evidence, at their own responsibility, then irreparable loss would be caused to them.

3. Learned counsel for the petitioners has fairly submitted that in the present case, the evidence of the defendants has already been recorded and has submitted that in case the present petition of the petitioners is allowed then they would have no objection in case the defendants are given opportunity to rebut the evidence to be led by the petitioners. It is submitted that the Coordinate Bench of this Court, vide order dated 22.03.2023, had stayed the passing of the final order, which order has been highlighted and is reproduced hereinbelow:-

*“Present: Mr. Atul Lakhanpal, Sr. Advocate, with
Mr. Arjun Lakhanpal, Advocate for petitioners.*

*This revision petition under Article 227 of the
Constitution of India has been filed by petitioners impugning*



the legality of order dated 23.09.2022 (Annexure P-2) rendered by Additional Civil Judge (Senior Division), Ratia, in Civil Suit No.359 of 2017 titled 'Samad Baba and another vs. Prem Kumar and another', in terms of which, oral evidence of petitioners/ plaintiffs has been closed by Court order.

Learned senior counsel for petitioners contended that evidence of defendants has already been recorded and the case before Trial Court is fixed for 24.03.2023 for leading rebuttal evidence, if any, and arguments. He further urges that passing of final order in Civil Suit No.359 of 2017 titled 'Samad Baba and another vs. Prem Kumar and another' may be stayed.

Notice of motion for 11.04.2023.

Notice to the respondents through their counsel as well who are representing their cause before the Trial Court.

Dasti notice as well.

Meanwhile, passing of final order in Civil Suit No.359 of 2017 titled 'Samad Baba and another vs. Prem Kumar and another' shall remain stayed till the next date of hearing.

22.03.2023”

4. Learned counsel for the respondents, on the other hand, has submitted that in case one effective opportunity is granted to the petitioners to lead their entire evidence, at their own responsibility, then the same should be subject to payment of heavy cost.

5. Learned counsel for the petitioners, in rebuttal to the abovesaid, has submitted that the petitioners are ready to pay an amount of Rs.30,000/- as cost to the respondents/defendants.

6. Keeping in view the abovesaid facts and circumstances, this Court is of the view that one last effective opportunity on payment of adequate cost should be granted to the petitioners to lead their entire



evidence, at their own responsibility. Accordingly, the present revision petition is partly allowed and the order dated 23.09.2022, to the extent that the oral evidence of the petitioners had been closed by order, is set aside with the following directions/observations:-

- a) The petitioners would deposit an amount of Rs.30,000/- within a period of two weeks from today before the trial Court by moving an application. On deposit of the said amount, the same would be released by the trial Court to the two set of defendants in equal proportion.
- b) In case of the said deposit having been made, the trial Court would give one last effective opportunity to the petitioners to lead their entire evidence, at their own responsibility.
- c) In case the said amount is not deposited within the aforesaid period, then the present revision petition would be deemed to have been dismissed.
- d) Since, it has been fairly stated before this Court that the evidence of the defendants has already been recorded thus, one effective opportunity should also be granted to the defendants to lead rebuttal evidence to the evidence which the petitioners would now produce in pursuance of the order passed by this Court.

7. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

16.09.2025

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No