



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

CR-1968-2025

Date of Decision: 09.04.2025

Malti Devi (Deceased) Through LRs and Another ...Petitioners

Versus

Malti Devi and Others ...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Naveen Sharma, Advocate and
 Mr. Arjunveer Sharma, Advocate, for the petitioners.

 Mr. Varun Gupta, Advocate
 for respondents No.1 and 2.

VIKRAM AGGARWAL, J (ORAL)

The present petition is directed against the order dated 08.01.2025 passed by the Court of learned Civil Judge (Junior Division), Ludhiana, vide which the evidence of the petitioners/defendants was closed.

2. A suit for mandatory injunction was filed by the plaintiffs-respondents directing the petitioners-defendants to hand over the vacant possession of suit property (shown in red in the site plan) (fully described in the plaint). Recovery of Rs.10,000/- on account of *mesne* profits was also sought.

3. The suit was filed in the year 2017. The defendants-petitioners put in appearance before the trial Court and opposed the suit by way of written statement (Annexure P-2). Thereafter, issues were framed on 17.05.2018 and evidence of the plaintiff was closed on 28.08.2019 and the case was fixed for defendant's evidence on 23.09.2019. In between, an application was moved for consolidation of proceedings with another civil suit pending between the parties, which was decided on 10.11.2021. Subsequently,

the matter was referred for mediation. Again on 19.02.2024, an application of comparison of signatures of deceased Jang Bahadur was filed and the same was decided on 12.11.2024. The case was adjourned on many occasions for defendants evidence and ultimately vide order dated 08.01.2025, the evidence of defendant was closed, leading to the filing of the present revision petition.

4. I have heard learned counsel for the parties.

5. Learned counsel for the petitioners submits that only one effective opportunity would be required by the petitioners-defendants to lead and conclude their evidence. He submits that the petitioners-defendants had exercised due diligence but despite the same, the evidence could not be concluded in time. Learned counsel undertakes that the petitioners would not delay the trial and would lead and conclude the remaining evidence in one effective opportunity.

6. *Per contra*, Mr. Varun Gupta, learned counsel representing respondents No.1 and 2 submits that the suit was filed in the year 2017. The evidence of the plaintiff was closed on 28.08.2019 and since then the matter is being fixed for the petitioner's evidence but they have failed to conclude the same. He submits that the petitioners-defendants availed sufficient opportunities and did not deliberately conclude the evidence. He submits that, in any case, no further opportunity deserves to be granted to the petitioners.

7. I have considered the submissions made by learned counsel for the parties.

8. Admittedly, the suit was filed in the year 2017. The defendants-petitioners put in appearance before the trial Court and thereafter, issues were framed on 17.05.2018 and the evidence of the plaintiff was closed on 28.08.2019 and the case was fixed for defendant's evidence on 23.09.2019. A perusal of the interlocutory orders shows that in between, an application for consolidation of the proceedings with another civil suit was filed which was

decided on 10.11.2021 and thereafter, on 19.02.2024, an application of comparison of signatures of deceased Jang Bahadur was filed and the same was decided on 12.11.2024. The petitioners seek only one effective opportunity to lead and conclude their evidence. In the considered opinion of this Court, such opportunity should have been granted by the trial Court. In any case, this Court is of the considered opinion that matters should be decided on merits rather than on technicalities. Under the circumstances, I deem it appropriate to grant one effective opportunity to the petitioners-defendants to lead and conclude their evidence.

9. Accordingly, the revision petition is allowed and the impugned order dated 08.01.2025 passed by the Court of learned Civil Judge (Junior Division), Ludhiana, vide which the evidence of the petitioners/defendants was closed, is set aside. The trial Court is directed to grant one effective opportunity to the petitioners-defendants to lead and conclude their evidence on a date to be fixed by it. This shall however, be subject to payment of costs of Rs.15,000/-, which shall be payable to the respondents/plaintiffs.

(VIKRAM AGGARWAL)
JUDGE

09.04.2025

Prince Chawla

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No