



CR-6124-2025

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(133)

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Date of Decision:-04.09.2025

M/s G.K. Fabrics and Another

.....Petitioners

Versus

M/s Ess Ess Fabrics and Another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Saurav Kanojia, Advocate,
for the petitioners.

AMARINDER SINGH GREWAL, J. (Oral)

1. The present petition under Article 227 of the Constitution of India has been filed for setting aside the orders dated **11.03.2025 (Annexure P-3)** and **18.08.2025 (Annexure P-7)** passed by the learned Civil Judge (Junior Division), Ludhiana in Civil Suit No.5593 of 2020 titled *M/s Ess Ess Fabrics & another Vs. M/s G.K. Fabrics & another*, whereby the defence evidence of the petitioner was closed on 11.03.2025 despite the personal presence of DW-1, and the subsequent application under Section 151 CPC for recalling the said order was dismissed on 18.08.2025.

2. Brief facts of the case are that respondents/plaintiffs, *M/s Ess Ess Fabrics and another*, filed a suit for recovery of Rs.4,22,939/- along with interest @ 21% per annum against the petitioners/defendants, *M/s G.K. Fabrics and another*. Written statement was filed and issues were framed vide order dated 12.04.2022. The plaintiffs led their evidence, which was closed by court order dated 03.02.2024.



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3. The record reveals that vide order dated 10.09.2024, the evidence of defendants was closed. Thereafter, vide order dated 02.01.2025, the defendants were granted an opportunity to lead evidence and the case was adjourned to 13.01.2025 for cross-examination of DW-1. However, the witness did not appear on 29.01.2025 and 06.02.2025. On **11.03.2025**, DW-1 was present; the order-sheet records the presence of learned counsel for the defendants, Ms. Preeti Verma, Advocate. Notwithstanding the witness's presence and the request, the defence evidence was closed.

4. The subsequent application filed under Section 151 CPC seeking recall of the said order was dismissed by the learned trial Court on 18.08.2025.

5. Learned counsel for the petitioner urged that when the witness was admittedly present on 11.03.2025 and counsel requested to proceed, closure of the entire defence by order was a disproportionate sanction. Learned counsel for the petitioner prays for one opportunity to examine the evidence of DW1, as petitioner-defendant has strong and substantial defence against the respondent-plaintiff in the suit and the denial of opportunity will virtually result in grant a decree without trial.

6. I have heard learned counsel for the petitioner and perused the paper book.

7. In view of the nature of order proposed to be passed, issuance of notice to respondents is dispensed with, as it would only delay the proceedings and cause unnecessary expense to the respondents.

8. This Court is conscious that (a) trials must proceed efficiently, (b) repeated indulgences embolden delay, and (c) closure of evidence may be justified where parties display persistent recalcitrance. However, when the witness is present in Court and the party seeks to proceed, the Court's first instinct



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should be to utilize the witness's presence and move the trial forward rather than impose the ultimate sanction.

9. This Court finds that the impugned orders suffer from a material irregularity. The trial Court failed to weigh the decisive circumstance i.e. the presence of DW-1 on 11.03.2025 and the feasibility of proceeding then and there or on a peremptory near date with costs. The refusal to exercise inherent powers to cure the situation has resulted in procedural unfairness. Interference under Article 227 is therefore warranted to prevent miscarriage of justice and to ensure that the trial proceeds efficiently and fairly.

10. In light of the above, the present petition is allowed. The orders dated 11.03.2025 and 18.08.2025 are hereby set aside. The petitioner/defendant is granted one effective opportunity to examine DW-1 before the learned trial Court.

11. It is further made clear that the defendants/petitioners are granted only one final and effective opportunity to examine DW-1 only before the learned trial Court, subject to the following conditions:

(i) The petitioners shall pay costs of Rs. 5,000/- to the respondents/plaintiffs before commencement of DW-1's examination.

(ii) The learned trial Court shall fix a peremptory date within 30 days from the receipt of this order for recording the entire examination-in-chief and cross-examination of DW-1, and shall make all endeavour to conclude it on the same day.

(iii) No further adjournment shall be granted to the defendants on any ground, including non-availability of counsel. If DW-1 or the defendants default, the earlier closure of defence evidence shall stand revived automatically, and the trial shall proceed in accordance with law.

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12. It is clarified that this Court has not expressed any opinion on the merits of the case. A copy of this order be transmitted forthwith to the learned trial Court for compliance.

13. All pending application(s), if any, stand disposed of accordingly.

(AMARINDER SINGH GREWAL)
JUDGE

04.09.2025*Shubham*

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