



**CM-6905-CII-2025 in/and
CR-5851-2023**

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

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Date of decision:04.04.2025**

MAJOR SINGH (THROUGH HIS LRS) AND ANR. ...PETITIONERS

VS.

AMARJIT SINGH

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Akshay Chadha, Advocate
for the petitioners.

Mr. G.S. Punia, Senior Advocate with
Ms. Harveen Kaur, Advocate
for the respondent.

SUVIR SEHGAL, J.

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1. For the reasons given in the application, the date of hearing of the main petition, which is fixed for 16.07.2025 is advanced to today and the petition is ordered to be taken on Board.

2. Application is disposed off.

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3. Instant revision petition has been filed under Article 227 of the Constitution of India for setting aside orders dated 01.03.2023 and



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16.09.2023, Annexures P-11 and P-13, respectively, whereby evidence of petitioners/defendants was closed and an application for recall of order, Annexure P-12, has been dismissed.

4. Counsel for the petitioners submits that the respondent/plaintiff filed a suit for declaration to the effect that he is joint owner in possession of the share of Major Singh, deceased, in the suit property which is a joint hindu family property and sought permanent injunction restraining the defendants from alienating the suit property. Counsel states that the dispute primarily relates to the validity of Will executed by Major Singh, deceased. He states that upon being served, petitioners/defendants contested the suit by filing a written statement. Counsel submits that after issues were framed, plaintiff concluded their evidence on 09.11.2021 and they were granted as many as 54 effective opportunities. However, without giving ample opportunity to the defendants, Trial Court vide impugned order, Annexure P-11, closed their evidence. Counsel asserts that an application was immediately moved for recalling of the said order, which has been declined vide order, Annexure P-13, which is also being impugned herein. By making a reference to the interim orders passed by the Trial Court, counsel asserts that the witnesses could not be examined by the defendants as notices were not issued to them by the Ahlmad and the Trial Court issued notice to the concerned Ahlmad under Section 36 of the Punjab Courts Act and has sought his explanation. Counsel submits that the defendants be granted one effective opportunity to produce the entire evidence at their own responsibility.



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5. While opposing the petition, counsel for the respondent urges that the defendants were given as many as 24 opportunities to lead their evidence, but they could not produce their witnesses. He submits that even cost was imposed upon them and they were given last opportunity, but due to their laxity, they did not conclude their evidence. It is his assertion that the defendants are procrastinating the trial and have produced only two witnesses in one and a half year.

6. I have heard counsel for the parties and considered their respective submissions besides examining the documents placed on the record.

7. Undisputedly, defendants have been remiss in leading evidence and despite availing numerous opportunities, they have examined only two witnesses. Onus of proving some of the issues is on the defendants. In case, the defendants are not given an effective opportunity to produce their entire evidence, their defence is likely to be effected. This Court is, therefore, of the view that an opportunity deserves to be granted to them.

8. Accordingly, petition is allowed. Impugned orders dated 01.03.2023 and 16.09.2023, Annexures P-11 and P-13, are set aside. Petitioners/defendants are granted one effective opportunity to lead their entire evidence at their own responsibility, subject to deposit of cost of Rs.20,000/- with the Sadhna Society for Mentally Handicapped, Near Housing Board Chowk, Raen Basera Building, Manimajra, Sector 13, Chandigarh, Account No.110410011001558, IFSC Code:- ANDB000110.

9. Deposit of cost shall be a condition precedent before the opportunity can be availed.



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10. Petitioners shall appear before the Trial Court on 15.04.2025 and the Trial Court would fix a date to enable them to produce their entire evidence at their own cost and responsibility.

04.04.2025
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**(SUVIR SEHGAL)
JUDGE**

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No