



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

**CR-2836-2025
Decided on 29.07.2025**

Pickup Honda, Faridabad through its Director

..... Petitioner

Versus

D.H.B.V.N. through S.D.O. (Op.), Sub Division No.1, N.I.T. Faridabad (Haryana)

..... Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Balraj Gujjar, Advocate
for the petitioner.

VIKRAM AGGARWAL, J (ORAL)

The instant revision petition, preferred under Article 227 of the Constitution of India, assails the order dated 13.01.2025 (Annexure P-4), passed by the Court of Civil Judge (Junior Division), Faridabad vide which evidence of the petitioner-plaintiff was closed and it was ordered that the examination-in-chief of PW-1 would not be read in future.

2. A civil suit for declaration with consequential relief of permanent and mandatory injunction (Annexure P-1) was instituted by the petitioner-plaintiff against the respondent-defendant. The petitioner-plaintiff was charged with theft of electricity and was called upon to pay the assessed amount of ₹7,77,589/- alongwith compounding amount of ₹90,000/-, failing which the electricity connection of the petitioner-plaintiff would be disconnected. Final order of



assessment in this regard was also passed leading to the filing of the suit.

3. The suit was opposed by way of written statement (Annexure P-2).

4. After issues having been framed, while the matter was fixed for evidence of the petitioner-plaintiff, its evidence was closed by order on 13.01.2025 (Annexure P-4), leading to the filing of the instant revision petition.

5. I have heard learned counsel for the petitioner.

6. Learned counsel for the petitioner submits that the impugned order is very harsh and shall gravely prejudice the rights of the petitioner. Learned counsel has referred to all the interlocutory orders and has submitted that the non-conclusion of evidence of the petitioner-plaintiff was not intentional but was bonafide. He submits that only one witness i.e. PW-1 is to be examined whose examination-in-chief already stands recorded. He also submits that costs imposed by the trial Court also stand paid.

7. I have considered the submissions made by learned counsel for the petitioner but find the same to be devoid of merit.

8(i). Here, the petitioner is a Company which instituted a suit in 2022. Though the order vide which issues had been framed has not been placed on record, order dated 11.04.2022 shows that the matter was fixed for the evidence of the petitioner-plaintiff. It is not known as to since when it was fixed for evidence. Be that as it may, thereafter, no evidence was produced for a number of dates. Repeatedly costs were imposed but were not paid for a number of dates. It was only on 02.12.2024 that one witness Sanjay (PW-1) appeared and his examination-in-chief was recorded. His cross-examination was deferred whereafter the said



witness again did not appear on a number of dates. Again, repeatedly, costs were imposed but were not paid.

8(ii). To properly appreciate the matter, the interlocutory orders need to be reproduced:-

“Order dated 11.04.2022

**Present: Shri Bhupesh Joshi, Advocate for the plaintiff.
Shri Gopal Dutt Sharma, Advocate for the defendant.**

Case received by way of transfer. It be checked and registered.

No evidence of plaintiff is present. Adjournment sought by counsel for plaintiff. Request heard and allowed. Now, case is adjourned to 11.07.2022 for evidence of plaintiff, at own responsibility.

Date of Order: 11.04.2022

Farman

**(Shivani Rana)
Civil Judge (Junior Division)
UID NO . HR00519**

Order dated 11.07.2022

**Present: Sh. Bhupesh Joshi, Advocate for the plaintiff.
Sh. Gopal Dutt Sharma, Adv. For defendant.**

No PW is present. Adjournment requested by Ld. Counsel for plaintiff. Heard. Allowed. Case is adjourned to 7.10.2022 for evidence of plaintiff.

Date of Order: 11.7.2022

Shashi Bala

**(Shivani Rana)
Civil Judge (Junior Division)
UID NO . HR00519**

**Order dated 07.10.2022****Present: None.**

File taken up today as the under-signed is proceeding on casual leave on 7.10.2022. Consequently, the matter/case is adjourned to 21.11.2022 for the purpose already fixed. Intimation about the next date of hearing be also sent to the parties through their respective counsel by SMS facility of the CIS system.

Date of Order: 7.10.2022**Shashi Bala**

**(Shivani Rana)
Civil Judge (Junior Division)
UID NO . HR00519**

Order dated 21.11.2022**Present: Sh. Bhupesh Joshi, Advocate for the plaintiff.
Sh. Gopal Dutt Sharma, Adv. For defendant.**

No PW is present. Adjournment requested by Ld. Counsel for plaintiff. Heard. Allowed, subject to cost of Rs. 200/- to be paid in DLSA. Case is adjourned to 11.1.2023 for evidence of plaintiff.

Date of Order: 21.11.2022**Shashi Bala**

**(Shivani Rana)
Civil Judge (Junior Division)
UID NO . HR00519**

Order dated 11.01.2023**Present: Sh. Bhupesh Joshi, Advocate for the plaintiff
Sh. Gopal Dutt Sharma, Advocate for the defendant**

In compliance of office Endst. No.8644-8649-D.3 dated 12.04.2021, passed by the Hon'ble District & Sessions Judge, Faridabad, file put up before me being the link court of Ms. Shivani Rana, learned Civil Judge (Jr. Divn.)-cum- Judicial



Magistrate Ist Class, Faridabad, as she is on Medical leave from 02.01.2023 to 17.01.2023.

Previous cost of Rs.200/- not paid by the plaintiff in DLSA, Faridabad. No plaintiff witness is present today. Adjournment sought by learned counsel for the plaintiff. Heard and allowed. Now to come upon 22.03.2023 for evidence of plaintiff, at own responsibility. Previous cost of Rs.200/- be also paid in DLSA, Faridabad by the plaintiff on the date fixed.

Date of Order: 11.01.2023

Mohit Sardana

(Anuradha-I)

Link/Civil Judge (Junior Division)

Faridabad, UID NO . HR0531

Order dated 22.03.2023

Present: Sh. Bhupesh Joshi, Adv. for plaintiff.
Sh. Gopal Dutt Sharma, Adv. for defendant.

In compliance of office Endst. No.8644-8649-D.3 dated 12.04.2021, passed by the Hon'ble District & Sessions Judge, Faridabad, file put up before me being the link court of Ms. Shivani Rana, learned Civil Judge (Jr. Divn.)-cum- Judicial Magistrate Ist Class, Faridabad, as she is on casual leave for 22.03.2023.

Previous cost of Rs. 200/- not paid. No PW is present today. Adjournment sought. Heard and allowed. Now to come up on 10.07.2023 for evidence of plaintiff, at own responsibility. Previous cost of Rs. 200/- and additional cost of Rs. 500/-, total cost of Rs.700/- to be paid to the DLSA by the plaintiff.

Date of Order: 22.03.2023

Mayank Asopa

(Anuradha-I)

Link/Civil Judge (Junior Division)

Faridabad, UID NO . HR0531

**Order dated 10.07.2023**

Present: Sh. Bhupesh Joshi, Adv. for plaintiff.
Sh. Gopal Dutt Sharma, Adv. for defendant.

Previous cost of Rs. 700/- not paid. No PW is present today. Adjournment sought. Heard and allowed. Now to come up 20.10.2023 for evidence of plaintiff, at own responsibility. Previous cost of Rs. 700/- to be paid in DLSA by the plaintiff.

Date of Order: 10.07.2023
Mayank Asopa

(Shivani Rana)
Civil Judge (Junior Division)
UID NO . HR00519

Order dated 20.10.2023

Present: Sh. Bhupesh Joshi, Advocate for the plaintiff.
Sh. Gopal Dutt Sharma, Advocate for the defendant.

In compliance of office Endst. No.8644-8649-D.3 dated 12.04.2021, passed by the Hon'ble District & Sessions Judge, Faridabad, file put up before me being the link court of Ms. Shivani Rana, learned Civil Judge (Jr. Divn.)-cum- Judicial Magistrate Ist Class, Faridabad, as she is on leave.

Previous cost of Rs. 700/- not paid. No evidence of the plaintiff is present. Adjournment has been requested. Heard and allowed. Now to come up on 09.02.2024 for evidence of the plaintiff, at own responsibility. Previous cost of Rs. 700/- to be paid in DLSA by the plaintiff on the date fixed.

Date of Order: 20-10-2023
Honey

(Anuradha-I)
L/Civil Judge (Junior Division),
Faridabad
UID No. HR00531

**Order dated 09.02.2024**

**Present: Sh. Bhupesh Joshi, Advocate for the plaintiff.
Sh. Gopal Dutt Sharma, Advocate for the defendant.**

In compliance of office Endst. No.8644-8649-D.3 dated 12.04.2021, passed by the Hon'ble District & Sessions Judge, Faridabad, file put up before me being the link court of Ms. Shivani Rana, learned Civil Judge (Jr. Divn.)-cum- Judicial Magistrate Ist Class, Faridabad, as she is on leave.

Previous cost of Rs. 700/- not paid. No evidence of the plaintiff is present. Adjournment has been requested. Heard and allowed. Now to come up on 09.05.2024 for evidence of the plaintiff, at own responsibility. Previous cost of Rs. 700/- to be paid in DLSA by the plaintiff on the date fixed.

**Date of Order: 09-02-2024
Honey**

**(Anuradha-I)
L/Civil Judge (Junior Division),
Faridabad
UID No. HR00531**

Order dated 09.05.2024

**Present: Sh. Bhupesh Joshi, Advocate for plaintiff.
Sh. Gopal Dutt Sharma, Advocate for defendant.**

Previous cost paid and taken on record. No PW is present today. Again adjournment requested. Heard and allowed. Now to come up on 10.07.2024 for evidence of plaintiff, to be produced at own responsibility.

**Date of Order: 09.05.2024
Mayank Asopa**

**(Deepak Yadav)
Civil Judge (Junior Division)
Faridabad, UID No. HR00652**

**Order dated 10.07.2024**

**Present: Sh. Bhupesh Joshi, Advocate for plaintiff.
Sh. Gopal Dutt Sharma, Advocate for defendant.**

No PW is present today. Again adjournment requested. Heard and allowed. Now to come up on 11.09.2024 for evidence of plaintiff, to be produced at own responsibility.

Date of Order: 10.07.2024

Mayank Asopa

**(Deepak Yadav)
Civil Judge (Junior Division),
Faridabad, UID No. HR00652**

Order dated 11.09.2024

**Present: Sh. Bhupesh Joshi, Advocate for plaintiff.
Sh. Gopal Dutt Sharma, Advocate for defendant.**

No PW is present today. Again adjournment requested by learned counsel for plaintiff. Heard and allowed. Now to come up on 16.10.2024 for evidence of plaintiff, to be produced at own responsibility.

Date of Order: 11.09.2024

Mayank Asopa

**(Deepak Yadav)
Civil Judge (Junior Division)
Faridabad, UID No. HR00652**

Order dated 16.10.2024

**Present: Sh. Bhupesh Joshi, Advocate for plaintiff.
Sh. Gopal Dutt Sharma, Advocate for defendant.**

No PW is present today. Again adjournment requested by learned counsel for plaintiff. Heard and allowed, subject to cost of Rs.1000/- to be paid to defendant by plaintiff on the next date of hearing. Now to come up on 04.11.2024 for



evidence of plaintiff, to be produced at own responsibility.

Date of Order: 16.10.2024

Mayank Asopa

**(Deepak Yadav-I)
Civil Judge (Junior Division)
Faridabad, UID No. HR00652**

Order dated 04.11.2024

**Present: Sh. Bhupesh Joshi, Advocate for the plaintiff.
Sh. Gopal Dutt Sharma, Advocate for defendant.**

No evidence of the plaintiff is present. Adjournment sought. Heard and allowed, subject to payment of cost of Rs. 1000/- to be paid by plaintiff in DLSA. Now to come up on 13.11.2024 for evidence of the plaintiff, at own responsibility. It shall be the last and final opportunity.

Date of Order: 04-11-2024

Honey

**(Deepak Yadav)
Civil Judge (Junior Division),
Faridabad
UID No. HR00652**

Order dated 13.11.2024

**Present: Sh. Bhupesh Joshi, Advocate for plaintiff.
Sh. Gopal Dutt Sharma, Advocate for defendant.**

No PW is present today. Learned counsel for plaintiff requested for an adjournment as sister of plaintiff has been died. Heard and allowed. Now to come up on 02.12.2024 for evidence of plaintiff, to be produced at own responsibility, failing which evidence of plaintiff shall be deemed to be closed on the fixed date. This shall be last and final opportunity. Previous cost of Rs. 1000/- to be paid in DLSA by plaintiff on the date fixed.

Date of Order: 13.11.2024

Mayank Asopa

**(Deepak Yadav-I)
Civil Judge (Junior Division)
Faridabad, UID No. HR00652**

**Order dated 02.12.2024**

**Present: Sh. Bhupesh Joshi, Advocate for plaintiff.
Sh. Gopal Dutt Sharma, Advocate for defendant.**

Previous cost not paid. One PW namely Sanjay is present and examined-in-chief as PW1. His cross-examination is deferred due to copy of affidavit supplied today. His cross-examination is recorded by LC and fee of LC paid. No other PW is present today. Adjournment sought. Heard and allowed. Now to come up on 17.12.2024 for cross-examination of PW1 as well as remaining evidence of plaintiff, to be produced at own responsibility. Previous cost of Rs. 1000/- to be paid in DLSA by plaintiff on the date fixed.

**Date of Order: 02.12.2024
Mayank Asopa**

**(Deepak Yadav-I)
Civil Judge (Junior Division)
Faridabad, UID No. HR00652**

Order dated 17.12.2024

**Present: Sh. Bhupesh Joshi, Advocate for plaintiff.
Sh. Gopal Dutt Sharma, Advocate for defendant.**

No PW is present today. Adjournment sought. Heard and allowed, subject to cost of Rs. 2000/- and previous cost of Rs.1000/-, thus, total cost of Rs. 3000/- to be paid in DLSA by plaintiff on next date of hearing. Now to come up on 19.12.2024 for cross-examination of PW1 as well as remaining evidence of plaintiff, to be produced at own responsibility. This shall be last and final opportunity.

**Date of Order: 17.12.2024
Mayank Asopa**

**(Deepak Yadav-I)
Civil Judge (Junior Division)
Faridabad, UID No. HR00652**

**Order dated 19.12.2024**

**Present: Sh. Bhupesh Joshi, Advocate for plaintiff.
Sh. Gopal Dutt Sharma, Advocate for defendant.**

No PW is present today. Adjournment sought. Heard and allowed, subject to additional cost of Rs. 1000/- and previous cost of Rs. 3000/-, thus, total cost of Rs. 4000/- to be paid in DLSA by plaintiff on next date of hearing. Now to come up on 13.01.2025 for cross-examination of PW1 as well as remaining evidence of plaintiff, to be produced at own responsibility. This shall be last and final opportunity.

Date of Order: 19.12.2024

Mayank Asopa

**(Deepak Yadav-I)
Civil Judge (Junior Division)
Faridabad, UID No. HR00652”**

8(iii). Order XVII of the Code of Civil Procedure, 1908 (for short ‘CPC’) deals with adjournments. Order XVII Rule (1) CPC lays down that the Court may, if sufficient cause is shown, at any stage of the suit, grant time to the parties or to any of them, and may from time to time adjourn the hearing of the suit for reasons to be recorded in writing. Provided that no such adjournment would be granted more than three times to a party during hearing of the suit.

8(iv). Courts are flooded with litigation and pendency of cases is a topic of discussion everywhere. On account of the sheer volume of cases, Courts also, at times, tend to grant adjournments in a liberal manner. However, if one goes through the interlocutory orders, it emerges that the petitioner-plaintiff sought adjournments in the most brazen manner and violated the procedure and the process of law with impunity. Costs imposed by the Court were not paid for



many dates. Even when the impugned order was passed, costs imposed on 3-4 dates in succession had not been paid and they were paid only after the impugned order was passed which would be of no relevance.

8(v). In the case of *Shri Anand Parkash Vs. Shri Bharat Bhushan Rai and another 1982 (1) RCR (Rent) 1*, Hon'ble Full Bench of this Court was dealing with a similar issue. A suit for recovery was filed by one Anand Parkash against Bharat Bhushan Rai and Another. Before the evidence of the plaintiff could be recorded, an application was filed on behalf of the defendants that defendant No.2 had died and as her LRs were not brought on record, the suit had abated. The factum of death was admitted by the plaintiff but the date of death was disputed. Parties were directed to lead evidence about the date of death of defendant No.2-Smt. Dhanvantri Devi. After some evidence had been led, the case was adjourned to 23.08.1978 for remaining evidence. On this date, an adjournment was prayed for on behalf of the defendants on the ground that the counsel had gone out of station. The prayer for adjournment was granted subject to payment of ₹35/- as costs. The defendants stated that they did not wish to pay the costs as they were not wanting to lead any evidence. An application was filed by the plaintiff under Order 18 Rule 17 read with Sections 151 and 35-B CPC to the effect that since the defendants had refused to pay the costs intentionally in order to delay the proceedings, they be debarred from prosecuting their defence any further. The trial Court accepted the said plea and held that that the defendants could not be allowed to further prosecute their application but the plea of the plaintiff that the defence be struck off was negated.



8(vi). However, the Hon'ble Full Bench held that where costs had deliberately not been paid, the defence on the whole would be struck off. The relevant part of the judgment is extracted hereinbelow:-

“3. Anand Parkash petitioner filed a suit for the recovery of Rs. 400/- against Bharat Bhushan Rai and another, defendants. Before the evidence of the plaintiff could be recorded, an application was filed on behalf of the defendants to the effect that Smt. Dhanvantri Devi, defendant No. 2, had died and as her legal representatives were not brought on the record, the suit had abated. The plaintiff admitted the factum of the death of Smt. Dhanvantri Devi but disputed the date of death as given by the defendants, with the result that the parties were directed to led evidence about the date of the death of Smt. Dhanvantri Devi. After some evidence was led, the case was adjourned for recording the remaining evidence of the parties, to August 23, 1978, on which date an adjournment was prayed for on behalf of the defendants on the ground that their counsel had gone out of station. The prayer for adjournment was granted by the court subject to the payment of Rs. 35/- as costs and the case was adjourned to August 30, 1978, for the evidence of the parties. On august 30, 1978, the defendants stated that they did not wish to pay the costs as they were not wanting to lead any evidence. On this an application was filed by the plaintiff under Order 18, Rule 17, read with Sections 151 and 35-B of the Code of Civil procedure (hereinafter referred to as the Code) to the effect that the defendants had refused to pay the costs of Rs. 35/- intentionally in order to delay the proceedings in the suit and that the defendants were debarred from prosecuting their defence any further. The other prayer made under Order 18, Rule 17 of the Code with which we are not concerned in this petition was that the plaintiff be allowed to be recalled as a witness. The application was opposed on



the defendants or groups of defendants, payment of such costs shall be a condition precedent to the further prosecution of the defence by such defendants or groups of defendants as have been ordered by the Court to pay such costs.

(2) The costs ordered to be paid under sub-section (1), shall not, if paid, be included in the costs awarded in the decree passed in the suit; but, if such costs are not paid, a separate order shall be drawn up indicating the amount of such costs and the names and addresses of the persons by whom such costs are payable and the order so drawn up shall be executable against such persons.

| | | |
|-------------|------------|------------|
| <i>"xxx</i> | <i>xxx</i> | <i>xxx</i> |
| <i>xxx</i> | <i>xxx</i> | <i>xxx</i> |

19. The admitted facts of the case are that an adjournment was sought for leading evidence on the application that was filed with a prayer that as Sm. Dhanvantri Devi, defendant No. 2, had died, the suit had abated. The application was contested. As the date of death of Smt. Dhanvantri Devi was disputed the parties were allowed to lead evidence. The defendants led some evidence ad for the remaining evidence. The case was adjourned to 23rd of August, 1978. On this date evidence was not led and an adjournment was sought on the ground that the counsel had gone out of station. The adjournment was granted on payment of Rs. 35/- as costs and the case was adjourned to 30th of August, 1978, for the evidence of the parties on which date instead of paying the costs and leading evidence the counsel for the defendants gave statement that he did not want to pay the costs as he had not to lead any evidence. In view of this statement an application was filed under Section 35B of the Code praying that the defendants be debarred from prosecuting the defence any further. The learned trial Court allowed the application



only to the extent that the prosecution of the application was debarred. The order of the trial Court has been challenged through this revision petition.

20. There can be no gain-saying that adjournment was sought for leading evidence on the application which was a step taken in the suit. The learned Sub Judge acted illegally and with material irregularity in disallowing the prosecution of the application only. The act of the defendants in refusing to pay the costs were contumacious. On the admitted facts straightaway a case for taking penal action against the defendants had been made out. The trial Court acted illegally and with, material irregularity in debarring the defendants from prosecuting the application only. The impugned order of the trial Court cannot be legally sustained.

21. Consequently, I allow this revision petition, set aside the order of the trial Court dated 6th September, 1978 and hold that as the costs were not paid by the defendants, they are debarred from prosecuting their defence any further. In the circumstances of the case, I make no order as to costs. The parties through their counsel are directed to appear before the trial Court on 20th July 1981.

22. I have the privilege of perusing the detailed and lucid judgments recorded by my learned brothers Jain and Sharma, JJ. With greatest deference to the view expressed by Sharma, J. I agree with Jain, J.

23. In accordance with the majority decision it is held that in the event of the party failing to pay the costs on the date next following the date of the order imposing costs, it is mandatory on the Court to disallow the prosecution of the suit or the defence, as the case may



be and that no other extraneous consideration would weigh with the Court in exercising its jurisdiction against the delinquent party. However, where the costs are not paid as a result of the circumstances beyond the control of the defaulting party then the Court will be well within its jurisdiction to exercise its power under section 148 of the Code in favour of the defaulting party if a strong case is made out for the exercise of such jurisdiction.

24. The revision petition is allowed and the order of the trial Court dated 6th September, 1978, is set aside and the defendants are debarred from prosecuting the defence any further. In the circumstances of the case the parties to bear their own costs.

25. The parties through their learned counsel have been directed to appear before the trial Court on 20th July, 1981.

After the judgment of the Hon'ble Full Bench, a number of judgments by Coordinate Benches of this Court, while following the judgment of the Hon'ble Full Bench have reiterated the aforesaid principle of law. In the case of "**Rajender Vs. Ishwar Singh**", 2020 (1) RCR (Civil) 784, the costs imposed for non-filing of written statement had not been paid as a result of which the defence was struck off. The said decision was upheld by the High Court while referring to the judgment of the Hon'ble Full Bench.

9. It is time that such careless, callous and lackadaisical approach is not granted any premium by giving one more opportunity with payment of costs.

That being so, I do not find any reason whatsoever to interfere with the impugned order. As a consequence thereof, the revision petition is found to be

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devoid of merit and is accordingly dismissed.

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

29.07.2025

mamta

(VIKRAM AGGARWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No