

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA****CMPMO No.248 of 2025****Date of Decision : 30.05.2025****Satpal Rattan****..... Petitioner*****Versus*****Vijay Laxmi & another****.....Respondents*****Coram:*****The Hon'ble Mr. Justice Bipin Chander Negi, Judge***Whether approved for reporting?<sup>1</sup>*

For the petitioner : Mr. Gaurav Sharma, Advocate.

For the respondents : Nemo

**Bipin Chander Negi, Judge (oral)**

The petitioner is the defendant before the learned trial Court. Challenge has been laid to the impugned order dated 09.05.2025, whereby the right of the petitioner to lead evidence has been closed. The impugned order is being reproduced hereinbelow:

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09.05.2025

Present: Sh. Pankaj Sharma Advocate for the petitioner.

Respondent with Sh. Gaurav Sharma Advocate.

The present case was fixed for examination of respondent's witnesses who were to be produced on self-responsibility and exceptional last opportunity was granted for the same. No RWs have been produced for their

examination rather an application under Section 151 of CPC has been filed seeking permission to file the list of witnesses. Since the Court has already directed to the respondent vide order dated 20.03.2024 that the witnesses shall be produced on self-responsibility, there remains no scope for entertaining the said application filed for furnishing the list of witnesses. Accordingly, the application filed is **dismissed** being devoid of merits, it after due completion be tagged with the main case file for the purpose of record.

Since no RWs have been produced for their examination, the opportunity to examine the RWs stands closed by the order of this Court. Now to come up for arguments on **17.06.2025**.

SD/-

Ekansh Kapil

Rent Controller, Court Number. (2),

District Shimla, H.P.

**2.** Heard counsel for the petitioner and perused the pleadings and impugned order.

**3.** The record reflects that, by order dated 20.03.2024, the Present Petitioner (Respondent before the trial Court) was granted an exceptional last opportunity to produce his witnesses on self-responsibility, with the hearing fixed for 09.05.2025. On, 09.05.2025 The present petitioner's witnesses were not produced rather an application under Section 151 of CPC was filed for furnishing the list of witnesses. Considering the aforesaid facts and circumstances, the trial Court was of the view that no further opportunity is justified. Hence, the opportunity to lead evidence by the present petitioner was closed by the said order of the Court.

**4.** It has been pleaded in the present petition that the respondent engaged a new counsel in the case, who had filed his power of Attorney on 20.03.2024. It is pertinent to note here that as per the respondent's arguments his new counsel had entered appearance

only on **20.03.2024**, whereas the evidence was closed vide order dated **09.05.2025**. This indicates that the respondent had more than a year's time to prepare his case and arrange for witnesses. The belated engagement of a new counsel does not absolve the respondent of his responsibility to comply with the court's timelines, particularly when sufficient prior opportunities had already been afforded. In the light of the above, the defense that the change of counsel necessitated further indulgence lacks merit, and the trial court was justified in closing the evidence, having already provided ample and reasonable opportunities to the respondent to do the needful.

**5.** The aforesaid impugned order show how the civil process has been abused by the present petitioner, in the case at hand, by seeking repeated adjournments. Orders 17 Rule 1 CPC specifically provides that not more than three adjournments shall be granted during the hearing of the suit. In my considered view even the three adjournments cannot be granted as a matter of right.

**6.** Un-doubtedly procedure is a handmaid and not the mistress. Procedure has been codified in a procedural code in order to streamline the adjudicatory process inter-se the parties. The procedure prescribed is to ensure that a fair, reasonable, adequate opportunity is afforded to the parties to a lis to plead and prove their

respective case. However, procedure cannot be abused and proceedings cannot be un-necessarily protracted to the detriment of the opposing party.

7. In the case at hand after having taken numerous opportunities for leading evidence, the present petitioner can hardly challenge the correctness of the impugned order more particularly on the ground that the learned trial court has failed to exercise the jurisdiction vested in it or that the trial Court has wrongly exercised jurisdiction.

8. Speedy trial requires an efficient justice dispensation system. In order to create an efficient justice dispensation system and maintain faith in rule of law, Courts are expected to be diligent and take timely action.

9. Delay, dilatory tactics ensure non-dispensation of timely justice, thereby, shaking the trust and confidence of a litigant in the justice delivery system, Courts are enjoined upon to perform their duties with the object of strengthening the confidence of a common man in the Institution entrusted with the administration of justice. Any effort which weakens the system and shakes the faith of the common man in the justice dispensation has to be discouraged.

10. It has been held by this Court in **Shamsher Singh v. Surat Singh, 2019 SCC OnLine HP 2298** that if a party does not lead evidence despite repeated opportunities granted to it, then the Court

is not supposed to wait infinitely for the party to lead its evidence. It is a conscious act of a party not to lead its evidence and the consequences thereof have to be borne by the party. It was observed: -

“4. Having heard learned Counsel for the parties and having perused the judgments and decrees passed by the learned Trial Court as well as the learned Appellate Court along with the record of the case, in my considered view, the judgment passed by the learned Appellate Court is not sustainable in law. It is a matter of record that the evidence of the defendant was closed by the learned Trial Court after affording him more than three opportunities to lead evidence. If a party does not lead evidence despite reasonable opportunities granted to it, then the Court is not supposed to wait till eternity for the party to lead its evidence. It is a conscious act of a party not to lead its evidence and the consequences thereof have to be borne by the party. This extremely important aspect of the matter has not been taken into consideration by the learned Appellate Court while ordering that the defendant be granted an opportunity to lead evidence.” (Emphasis supplied)

**10.** The present petition has been preferred under Article 227 of the Constitution of India. This Court has a restricted and limited jurisdiction to interfere under the correctional jurisdiction vested in it in terms of Article 227 of the Constitution of India, except to set right a grave dereliction of duty or flagrant abuse or violation of fundamental principle of law or justice, miscarriage of justice, unreasonable conclusion and perversity. On the other hand, in the

supervisory jurisdiction reviewing or reweighing evidence, substituting conclusions, correcting every error of fact or even a legal flaw when the final finding is justified or can be supported is not permissible. (See **Sadhana Lodhi vs. National Insurance Co. Ltd. & another, (2003)3 SCC 524**, and **Garment Craft vs. Prakash Chand Goel, (2022)4 SCC 181**).

**11.** In the case at hand, for the reasons stated herein above, I am of the considered view that no ground is made out in the present petition for invoking the jurisdiction of this Court under Article 227 of the Constitution of India.

**12.** In view of above terms, I find no merit in the present petition and the same is dismissed accordingly. Pending miscellaneous application(s), if any, shall also stand disposed of.

**May 30<sup>th</sup>, 2025**  
**(Gaurav Rawat/T.B)**

**(Bipin Chander Negi)**  
**Judge**