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**(2011) 03 SHI CK 0111**  
**In the High Court Of Himachal Pradesh**  
**Case No : CMPMO No. 71 of 2005**

Ram Kumar

APPELLANT

Vs

Amar Singh and Others

RESPONDENT

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**Date of Decision :** 07-03-2011

**Acts Referred:**

**Citation :** (2011) 03 SHI CK 0111

**Hon'ble Judges :** Deepak Gupta, J

**Bench :** Single Bench

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## Judgement

Deepak Gupta, J.—This petition is directed against the order dated 14.3.2005 whereby the learned Trial Court rejected the application filed by the Petitioner (hereinafter referred to as the "Defendant") for producing certain documents on record.

2. At the outset, I may state that the original suit was filed in the year 1999 and the written statement was filed on 8.3.2000 and issues were framed on 13.11.2000. The evidence of the Plaintiff was closed by the learned Trial Court on 18.11.2003. The learned Trial Court rejected the application of the Defendants mainly on the ground that the Defendants had taken more than 12 opportunities to lead their evidence. In fact, the record reveals a shocking state of affair where the Court has granted as many as six last opportunities to the Defendants for leading evidence. Such orders reflect poorly on the Presiding Officer. A Presiding Officer who is imparting justice in accordance with law must be firm and decisive. Once a Presiding Officer gives a last opportunity to lead evidence, he should close the evidence unless there are some very special circumstances. However, in this case, I find that the Presiding Officer did not close the evidence and even after the Defendants had virtually examined all their witnesses again gave an adjournment to the Defendants to file an application.

3. The Presiding Officer having granted as many as twelve opportunities to the Defendants to lead evidence should not have rejected the application of the Defendants only on the ground that they are delaying the proceedings because

the Presiding Officer was as much a part to the delay as the Defendants.

4. Be that as it may the fact remains that out of the documents sought to be brought on record, one document, i.e., copy of the order passed by the Sub Divisional Judicial Magistrate (1) Poanta Sahib, District Sirmaur in Cr. Petition No. 166/4 of 1992 decided on 13.12.1993 is a certified copy of a judicial order. This is a public document and is not required to be proved and is directly admissible in evidence. Therefore, only on the ground of delay, the admission of this document in evidence should not be rejected. However, the other documents sought to be produced by the Defendants cannot be permitted to be brought on record at this belated stage since in case these documents are allowed to be produced and brought on record, the suit shall get further delayed because these documents will have to be proved by other witnesses. This cannot be permitted.

5. Therefore, the petition is allowed to the limited extent that the Defendants are permitted to place on record the certified copy of the order dated 13.12.1993 passed in the Criminal Petition No. 166/4 of 1992. What is the effect of this order shall be seen by the court below and this Court is not expressing any opinion on the impact this new document will have on the proceedings.

The parties through their counsel are directed to appear before the learned Trial Court on 7.4.2011. Since the Defendants had sought adjournment only for the purpose of filing an application, they shall not be permitted to lead any further evidence and the learned Trial Court shall fix the case for rebuttal evidence, if any. Since I have allowed the Defendants to produce on record a document at this stage, the Plaintiff shall be given an opportunity to rebut such document by producing documentary evidence, if any. Since the suit relates to the year 1999, the learned Trial Court shall make an endeavour to dispose of the same latest by 30.6.2011. This order is passed subject to the payment of Rs. 1000/- as costs by the Petitioner which costs must be paid on or before 7.4.2011.

The petition is disposed of in the aforesaid terms.