

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

Civil Revision No.1648 of 2015 (O&M)
Date of decision: 09.03.2015

Smt. Kavita Jain and another

..... Petitioners

Versus

Smt. Savitri and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Ashok Tyagi, Advocate for the petitioners.

RAJESH BINDAL, J

Prayer in the present petition filed under Article 227 of the Constitution of India is for setting aside the order dated 24.2.2015 passed by the learned court below, whereby evidence of the petitioners-defendants was closed by order of the court.

The proceedings in the present case arise out of a suit for declaration and permanent injunction filed by respondents no. 1 and 2/plaintiffs against the petitioners/defendants.

For the view I am taking in the present petition, I do not deem it appropriate to issue notice to the respondents, as the same would unnecessarily delay not only disposal of the present petition but also the suit as well.

Learned counsel for the petitioners submitted that the suit was filed by respondents no. 1 and 2/ plaintiffs. Their evidence was closed on 29.5.2014. It took about two years for the plaintiffs to conclude their evidence. First date for the evidence of the defendants was fixed for 22.7.2014 and the learned court below closed the evidence of the defendants by order of court on 24.2.2015, without allowing them to conclude their evidence. He further submitted that even on the second date, i.e. 30.7.2014, the learned court below had made it the last opportunity. The most essential

witnesses, i.e. defendants No.2 to 4 and another witness, Clerk from the office of the Sub-Registrar, Kapashera, New Delhi, are still to be examined. Defendant No.1 has denied the execution of agreement to sell, GPA and Will. He further submitted that the case was adjourned to provide CD produced by DW-1 to counsel for the plaintiffs. In the order dated 9.2.2015, it has been recorded that the CD has already been supplied to the clerk of the counsel for the plaintiffs, but the same has been misplaced. The CD was to be provided by defendant No.1. Due to this reason, 2-3 adjournments took place. It is very much clear from the aforesaid facts that the petitioners are not responsible for causing any delay in the trial. He further submitted that in case one opportunity is granted, the petitioners will complete their entire evidence on the date fixed.

The facts submitted by the learned counsel for the petitioners are borne out from the record.

Considering the facts and circumstances of the case, while setting aside the impugned order dated 24.2.2015, closing the evidence of the petitioners-defendants no. 2 and 3, the learned court below is directed to grant one effective opportunity to the petitioners for completing their evidence on the date to be fixed, subject to payment of cost of ₹ 5,000/- to be payable equally i.e. ₹ 2,500/- to each plaintiff by way of demand draft by petitioners-defendants No.2 and 3. The petitioners shall be at liberty to get summons issued for the official witness. The revision petition is disposed of in the manner indicated above.

(RAJESH BINDAL)
JUDGE

09.03.2015

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