

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
228 **Civil Revision No.1879 of 2014**
Date of Decision:07.05.2015

Tarlok Singh **.....Petitioner**

Versus

Gurcharan Singh and another **.....Respondents**

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

**Present: Mr.Amarjit Markan, Advocate,
for the petitioner.**

**Mr.D.S.Gurna, Advocate,
for the respondents.**

M.M.S. BEDI, J.(oral)

This order will dispose of revision petition filed under Article 227 of the Constitution of India, challenging propriety of order dated 13.12.2013(Annexure P-1) dismissing the application dated 12.09.2013 (Annexure P-2) filed by the plaintiff-petitioner, thereby refusing permission to examine the witnesses to prove the registered sale-deed dated 19.09.2012 executed by defendant No.2-Harminder Singh in favour of Baljit Kaur, daughter-in-law of defendant No.1-Gurcharan Singh.

Counsel for the petitioner has contended that vide order dated 12.07.2013(Annexure P-3), the application for proving the above sale-deed dated 19.09.2012 was allowed granting one opportunity to the petitioner. The case was fixed for 05.08.2013 for producing witnesses to establish execution of the sale-deed, but the Presiding Officer did not hold the Court on the said date and as such the case was adjourned to 12.09.2013, on which

date, the application(Annexure P-2) was filed for permission to lead evidence of Baljit Singh, Ex-Sarpanch, who is witness of the sale-deed executed by defendant No.2 Harminder Singh in favour of Baljit Kaur and to record the statement of the Clerk of the office of Joint Sub-Registrar, Mullanpur Dakha, along with record pertaining to the sale-deed, besides recording the statement of the plaintiff to prove the sale-deed, (Ex.P-13). The affidavit of Ravi Kumar, Scribe of the sale-deed was filed under Order 18 Rule 4 CPC on the said date, but he was not cross-examined. Thereafter, the case was adjourned and ultimately, the application(Annexure P-2) was dismissed vide order dated 13.12.2013(Annexure P-1).

I have considered the facts and circumstances of the case and I am of the opinion that once the Court had permitted the plaintiff-petitioner to prove the sale-deed dated 19.09.2012 and given opportunity to the defendant-respondent also to rebut the same, a fair opportunity should have been granted to the plaintiff-petitioner by permitting him to examine the witnesses in context to the above sale-deed. Denial of opportunity is not only contradictory to the order dated 05.08.2013 passed by the Court itself, but it also tantamounts to denial of opportunity to prove the documents by producing the attesting witnesses in accordance with law.

The revision petition is allowed and the order dated 13.12.2013 (Annexure P-1) is hereby set aside. A direction is issued that the plaintiff-petitioner will be given one opportunity by the trial Court, to produce the witnesses i.e. attesting witness and the concerned Clerk of the office of Joint Sub Registrar, to prove the sale-deed and the trial Court will also permit cross-examination of the Scribe, whose examination-in-chief in the shape of affidavit has already been produced. It will be the responsibility of the

plaintiff-petitioner to produce the witnesses at his own responsibility by obtaining summons of the concerned Clerk well in time for the date fixed for cross-examination.

The revision petition is disposed of accordingly.

May 07, 2015
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(M.M.S. BEDI)
JUDGE