

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

Civil Revision No. 3082 of 2015 (O&M)

Date of decision : 7.5.2015

Anil Khurana

.. Petitioner

versus

Smt. Sukhwati

.. Respondent

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Johan Kumar, Advocate, for the petitioner.

Rajesh Bindal, J.

Prayer in the present petition filed under Article 227 of the Constitution of India is for setting aside order dated 23.4.2015 (Annexure P-1) passed by the learned court below, whereby evidence of the petitioner/plaintiff was closed by order of the court.

The proceedings in the present case arise out of a suit filed by the petitioner for specific performance of agreement to sell.

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

Learned counsel for the petitioner submitted that after completion of pleadings, the issues were framed on 11.4.2013 and the evidence of the petitioner started on 1.8.2013. Thereafter, the case was adjourned to 17.10.2013. As no witness was present on that day, the case was adjourned to 16.1.2014. On 16.1.2014, no PW was present and the case was adjourned to 13.3.2014. Thereafter on 13.3.2014, 10.7.2014, 14.7.2014, no proceedings took place as either the learned Presiding Officer was on leave or the case was transferred to other Court. On 25.9.2014, the petitioner examined one witness and the case was adjourned to 11.12.2014, on which date the case was adjourned to 26.2.2015 as the Presiding Officer

was on leave. On 26.2.2015 the case was adjourned to 23.4.2015 on that day the evidence of the petitioner was closed by order of the Court.

Learned counsel for the petitioner further submitted that only the petitioner is not responsible for delay. The petitioner has tried his best to conclude the evidence but due to reasons beyond his control, it could not be concluded. He prays that the petitioner wants to examine only one witness namely Baldev Singh and in case one opportunity is granted, the petitioner will conclude his entire evidence on the date fixed.

Heard learned counsel for the petitioner and perused the paper book.

The facts of the case are borne out from the record produced by the petitioner. As is evident from the zimni orders, it is not that only the petitioner was responsible for delay, rather on 2-3 times, the case was either adjourned due to Presiding Officer being on leave or the case was transferred to other Court. It is the suit filed by the petitioner and he cannot be stated to be interested in delaying the matter.

Considering the aforesaid facts, in my opinion, the petitioner deserve to be granted one opportunity to conclude his evidence. The same shall be on a date of hearing fixed by the court below. The same shall be subject to payment of ₹ 10,000/- as cost to the respondent by way of demand draft. Payment of costs shall be pre-condition. The learned court below on the date fixed shall first grant opportunity to the petitioner to conclude his evidence and thereafter proceed further with the case. The impugned order passed by the learned court below is modified accordingly. If aggrieved, the respondent shall have right to file application for recalling the aforesaid order.

The revision petition is disposed of in the manner indicated above.

7.5.2015
vs

(Rajesh Bindal)
Judge