

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

Civil Revision No. 5100 of 2015 (O&M)

Date of decision:- 12.08.2015

Roop Ram Educare Pvt. Ltd.

...Petitioner

Versus

Exclusive Floor Owner Society & ors

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Amit Jain, Advocate
for the petitioner.

RITU BAHRI J.(Oral)

This petition under Article 227 of the Constitution of India is for setting aside orders dated 21.07.2015 & 27.07.2015 passed by the learned Civil Judge (Jr. Divn.) Gurgaon, whereby the learned trial Court dismissed the application for adjournment on account of extreme compulsion of P.W Joginder Singh Mann and closing remaining evidence of the petitioner/plaintiff oral as well as documentary evidence.

Reference has been made to order dated 21.07.2015 which shows that the petitioner was present on that day but learned counsel for the defendants requested for an adjournment and on 13.01.2015, one witness Joginder Singh Mann was present before the Court and his cross examination was deferred on the request of the defendant-

counsel. Learned counsel for the defendant was given one more opportunity to cross examine the said witness, subject to payment of Rs.500/- as cost to be deposited in DLSA, Gurgaon and further it has been observed that nine effective opportunities have been granted for plaintiff evidence and closed remaining oral evidence of the plaintiff by court order and adjourned case for 27.07.2015. The trial Court further observed that the said witness has never been present before the Court for cross examination.

Vide order dated 27.07.2015, the trial Court declined the application for adjournment filed by the petitioner on the ground that he had to visit Chandigarh immediately and closing entire evidence of the petitioner and adjourned the case for 04.08.2015 for D.W.s (P-7). Learned counsel for the petitioner has informed the Court that the trial is now fixed for 25.08.2015 for recording the evidence of the defendants.

Once the trial Court has observed that on 13.01.2015, cross examination of PW was deferred at request of defendant counsel and thereafter on 21.07.2015 also P.W. Joginder Singh was present before the Court and his cross examination was deferred at the request of defendant counsel for which a cost of Rs.500 was imposed, thereafter, the trial Court has wrongly observed in order dated 21.07.2015 that

the said witness has never been present before the Court for cross examination.

In view of the above, the instant revision petition is accepted. Consequently, orders dated 21.07.2015 & 27.07.2015 (P-5 and P-7 respectively) passed by the learned Civil Judge (Jr. Divn.) Gurgaon is hereby set aside. The trial Court is directed to provide one more effective opportunity to the petitioner, to conclude his evidence, subject to payment of Rs.5000/- as costs, which shall be deposited before the District State Legal Service Authority, Gurgaon.

August 12, 2015

G Arora

(**RITU BAHRI**)
JUDGE