

CR-5828-2015

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

CR-5828-2015

Date of decision: 8.9.2015

Jagroop

...Petitioner

Versus

Smt.Kaushal Devi

...Respondent

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mrs.Vandana Sharma, Advocate for the petitioner

SNEH PRASHAR, J.

The present civil revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 13.8.2015 passed by learned Civil Judge (Senior Division), Mewat vide which evidence of the plaintiff-petitioner was closed by court order and the application for summoning the witnesses was declined.

Precisely the facts of the case are that the petitioner-plaintiff had filed a suit for specific performance with consequential relief of permanent injunction on the ground that an agreement to sell dated 31.7.2012 was entered into between him and the respondent-defendant. The suit was contested by the respondent. On rival contentions of the parties, issues were framed by learned trial

Court on 15.4.2015. No list of witnesses was filed by the petitioner but he examined two witnesses namely Mukesh and Jai Singh and also himself stepped into the witness box on 6.8.2015 and 13.8.2015. When despite last opportunity given to the petitioner for his evidence no witness was present learned trial Court closed his evidence by order dated 13.8.2015 and dismissed the application for summoning the witnesses filed by the petitioner on the ground that the same had not been filed within seven days of framing of the issues.

To avoid prolonging of the case and to entail unnecessary expenses on the respondent notice of motion has not been issued and the submissions made by learned counsel for the petitioner have been considered.

Learned counsel for the petitioner submitted that due to fault of the counsel representing the petitioner, the list of witnesses as mentioned in para No.8 of the petition could not be filed within the stipulated period. However, these witnesses are essential and relevant for the just and complete adjudication of the case. Submitting that non examination of the witnesses will cause an irreparable loss to the petitioner, learned counsel prayed that just one last opportunity be granted to the petitioner to lead his evidence and he will produce all his witnesses on the date so fixed.

Considering the submissions made and without going into the merits of the case, I feel it shall be expedient and in the interest of justice that one effective opportunity is given to the petitioner for leading his evidence. The examination of the witnesses will help the trial Court to better appreciate the issues involved and render substantial justice to the parties.

Accordingly, the present petition is allowed. The impugned order dated 13.8.2015 is set aside and the learned trial Court is directed to grant one effective opportunity to the petitioner-plaintiff to produce his entire evidence at his own risk and responsibility subject to deposit of Rs.2000/- as costs with the District legal Services Authority, Mewat. The petitioner will ensure presence of his witnesses on the date fixed and will get them served by taking dasti summons. It is made clear that if the petitioner fails to produce his entire evidence on the date so fixed by learned Trial Court, no further opportunity shall be granted to him.

8.9.2015
gsv

(SNEH PRASHAR)
JUDGE