

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

CR-6513-2015 (O&M)
Date of decision: 1.10.2015

Jasbir Kaur

...Petitioner

Versus

Bakshish Singh and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Amit Arora, Advocate for the petitioner

SNEH PRASHAR, J.

The present revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 28.8.2015 passed by learned Additional Civil Judge (Sr.Divn.), Tarn Taran vide which the evidence of the petitioner-defendant No.3 was closed by order.

Respondents No.1 to 3/ plaintiffs filed a suit for declaration of their respective ownership and possession rights in land measuring 54 kanals 19 marlas situated in village Chohla Sahib, Tehsil & District Tarn Taran and challenged the decree dated 31.3.2011 passed by learned Additional Civil Judge, Senior

Division, Tarn Taran in case No.310 of 2008 titled “Jasbir Kaur vs. Parkash Kaur in respect of land measuring 35 kanals 16 marlas as illegal, null and void and not binding on their rights.

Petitioner and respondent No.5 / defendants appeared and contested the suit. On 28.8.2015, the case was fixed for evidence of defendants, but as no witness was present, learned trial Court by recording that the defendants have availed sufficient opportunities and no plausible reason has been cited for non appearance of the witnesses closed their evidence by order.

The submissions made by learned counsel for the petitioner have been heard.

Learned counsel for the petitioner submitted that the petitioner/defendant No.3 in order to prove the General Power of Attorney dated 15.3.2007 duly executed in her favour by respondent No.4- Parkash Kaur, on the basis of which she entered into an agreement to sell dated 16.4.2007 with respondent No.5, had summoned the Registry Clerk from the office of Sub Registrar, Baba Bakala with record and had also summoned Nambardar Inder Singh, who was an attesting witness to the sale deed. They were served through dasti summons, but they reported that they are busy in State

level function and requested for another date. Learned counsel asserted with vehemence that non appearance of the said witnesses was not intentional or deliberate and that their non- examination will cause an irreparable loss to the petitioner. He prayed that only one last opportunity be allowed to the petitioner to conclude her evidence.

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 her remaining evidence. Needless to say that 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 28.8.2015 is set aside and the learned trial Court is directed to grant one effective opportunity to the petitioner to produce her entire evidence at her own risk and responsibility subject to deposit of Rs.5000/- as costs with the District legal Services Authority, Tarn Taran. The petitioner to ensure that both the aforestated witnesses alongwith the record will appear on the date fixed by learned trial court for getting their statements recorded.

However, it is made clear that if the petitioner fails to produce her entire evidence on the date so fixed by learned Trial Court, no further opportunity shall be granted to them.

1.10.2015
gsv

(SNEH PRASHAR)
JUDGE