

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

CR-6878-2015

Date of decision: 14.10.2015

M/s Ansal Properties & Infrastructure Ltd.

...Petitioner

Versus

Ms.Karamjeet Kaur and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Adarsh Jain, Advocate for the petitioner

SNEH PRASHAR, J.

By filing the present revision petition under Article 227 of the Constitution of India, the petitioner prayed for setting aside the order dated 28.9.2015 passed by learned Civil Judge, Junior Division, Gurgaon vide which the application filed by the petitioner for permission to examine husband of plaintiff No.2 Karamjit Kaur namely Bhagwan Singh Sandhu by way of additional evidence was dismissed.

Plaintiff No.1- petitioner through GPA of Karamjeet Kaur plaintiff No.2 filed a suit for declaration and possession of plot bearing No. C-961, situated in Sushant Lok-1, Gurgaon and also for permanent injunction restraining the defendants-respondents not to alienate the suit property. Defendant No.1 Karamjeet Kaur daughter

of Didar Singh and w/o Rupinder Singh allegedly executed a sale deed dated 5.9.2005 by impersonating herself as Karamjeet Kaur w/o Bhagwan Singh Sandhu. Thereafter, defendant No.1 through General Power of Attorney executed a sale deed dated 17.2.2006 in favour of defendant No.2, who further sold the suit property to defendants No.3 and 4 vide sale deed dated 9.5.2006. Subsequently, defendant No.6 purchased this property from defendants No.3 and 4 vide sale deed dated 12.11.2012.

The suit was contested by the defendants-respondents by filing their respective written statements. Issues were framed and the parties were called upon to adduce evidence. On 11.8.2015 evidence of the plaintiff- petitioner was closed by order as it was the last opportunity for the said purpose but only for cross- examination of PW2 Karamjeet Kaur, the case was posted to 12.8.2015.

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

Learned counsel for the petitioner submits that the examination of Bhagwan Singh Sandhu husband of PW2 Karamjeet Kaur is essential and relevant for the just and complete adjudication of the case. He was present before the trial court on the date fixed for cross-examination of thePW2 Karamjeet Kaur yet he was not allowed to step into the witness box even by way of additional

evidence. Submitting that non examination of the witness will cause an irreparable loss to the petitioner, learned counsel prayed that just one last opportunity be granted to the petitioner to examine Bhagwan Singh Sandhu in its evidence.

The case is stated to be fixed for defendants' evidence for 14.10.2015. In view of the facts and circumstances noticed as aforesaid and without going into the merits of the case, in my considered opinion, it shall be expedient and in the interest of justice that one effective opportunity is given to the petitioner to examine Bhagwan Singh Sandhu, husband of plaintiff No.2 Karamjeet Kaur, which may 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 28.9.2015 is set aside and the learned trial Court is directed to grant one opportunity to the petitioner to examine Bhagwan Singh Sandhu subject to deposit of Rs.2000/- as costs with the District legal Services Authority, Gurgaon.

It is made clear that if the petitioner fails to produce and examine the witness on the date so fixed by learned trial Court, no further opportunity shall be granted.

14.10.2015
gsv

(SNEH PRASHAR)
JUDGE