

IN THE HIGH COURT OF PUNJAB & HARYANA HIGH COURT
AT CHANDIGARH

Civil Revision No.7362 of 2014

Date of Decision: 08.01.2015

Sumit Anand and another

..... Petitioners

Vs.

Dev Krishan and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Ms. Rishma Verma, Advocate
for the petitioners/defendant Nos.4 & 5.

Mr. Sanjay Tangri, Advocate
for contesting respondent No.1/plaintiff.

JASWANT SINGH, J. (ORAL)

Defendants Nos.4 & 5 are in revision aggrieved by the order dated 20.10.2014 (P-1), passed by the learned Civil Judge (Sr. Divn.), N.R.I. Cases, Jalandhar, whereby their evidence has been closed by order.

The facts of the present case are that petitioner No.1/defendant No.4 is a resident of Australia and his cousin/petitioner No.2/defendant No.5 is a resident of Canada. They vide two separate sale deeds dated 01.12.2008 had purchased the suit property belonging to defendant No.1 Partap Krishan Mayor through his GPA holders/defendant Nos.2 and 3. The mutation in the relevant Municipal records had also been effected. The plaintiff Dev Krishan Mayor in connivance with his brother/defendant No.1 filed a suit on 10.11.2009 seeking a declaration that he was the owner of the suit property as per the family settlement dated 01.07.2008 entered between the plaintiff and his brother/defendant No.1. All the consequent actions like

GPA and Sale deeds were thus sought to be assailed while seeking injunction to protect his possession through his alleged tenants over the suit property.

On the basis of the pleadings, the issues were framed on 30.11.2010. The plaintiff closed his evidence on 19.09.2013 after availing almost three years to complete his evidence. Thereafter, the evidence of defendant No.1, who was supporting the case of the plaintiff after his cross-examination by the Counsel for the contesting defendant No.2 to 5 as well as the plaintiff was completed on 09.07.2014, as is apparent from the zimni orders at Page 19 of the Paper book. It is further apparent and conceded that the petitioners/defendant Nos.4 & 5 had availed only two effective opportunities on 06.08.2014 and 29.08.2014 wherein they examined three witnesses i.e. DW-2, DW-3 and DW-4. Thereafter, on the third effective opportunity on 20.10.2014, DW-4 was also examined by the petitioners, however, their evidence was closed by order by construing that they had availed 16 effective opportunities including last opportunity.

At the time of hearing, learned Counsel for the contesting plaintiff very graciously agrees that such observation in the impugned order is wrong and it was only the third effective opportunity availed by the petitioner/defendants on 20.10.2014 as borne out from the zimni orders produced. He thus does not seriously contest the grant of more effective opportunities to the petitioners. Moreover, he himself had taken three years to complete his evidence.

After hearing learned Counsel for the parties and keeping in view the various zimni orders and the facts of the present case as aforesaid, the present revision is allowed, the impugned order dated 20.10.2014 **(P-1)**

is set aside. Learned trial Court is further directed to grant two effective opportunities on the dates to be fixed to the petitioners/defendants to complete their evidence.

Allowed in the above terms.

January 08, 2015
Gagan

(JASWANT SINGH)
JUDGE