

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 7819 of 2013
Date of Decision: 4.5.2015

Amit Mehra

...Petitioner

versus

Pushpa Rani Dua and ors

....Respondents

CORAM: - HON'BLE MR. JUSTICE K.KANNAN

Present: - Mr. Rakesh Chopra, Advocate for the petitioner.
Mr. Parveen Kataria, Advocate for respondents.

K.KANNAN, J.

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Petitioner before this Court is aggrieved against the order of the learned Court below for not allowing the evidence of a building expert and the photographs to be brought in evidence when it was his turn to examine himself and offer his witnesses.

Counsel for the plaintiff would state that the defendant has contended that he has sold the property to first defendant and the first defendant in turn has sold the property to one Neelam Mehra and that by virtue of the sales, the defendant cannot have any subsisting interest to give any evidence. According to him the plaintiff has already examined the building experts and they have been cross-examined. He may not be given an opportunity of evidence through another building expert or submit any photographs.

The denial of evidence to the defendant cannot be sustained at all. The arguments raised by learned counsel appearing for respondent is

also equally untenable. The issue of locus standi is invariably applied only to the plaintiff and the defendant against whom the suit is filed cannot be declined any evidence. The plaintiff's assertion is that the defendant has no longer interest in the property. If he has sold the property it would still mean that he is bound to support the case of his purchaser in terms of Section 55 of the Transfer of Property Act. If the defendant, therefore, wants to give contra evidence on his side by examining the building expert and produce the photographs to substantiate the defence taken, the Court ought to have allowed for such a course to take place. Only the party will decide on adequacy of evidence and the Courts power ought to be exercised only for examining whether they are relevant or not. In a suit for injunction where the condition of the building has become relevant, the defendant was surely competent to bring any evidence that will bring support to his defence, no matter he has sold the property either before or after the suit. The order impugned is set aside and the evidence sought to be given by the defendant has to be admitted with liberty to the plaintiff to cross-examine the witness.

The revision petition is allowed in the above terms.

(K.KANNAN)
JUDGE

4.5.2015
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