IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 8203 of 2014
Date of decision: -14.8.2015

Jagtar Singh **.....Petitioner.**

vs.

Surinder Kaur **.....Respondent.**

CORAM: - HON'BLE MR. JUSTICE KULDIP SINGH

Present: - Mr. Gursharan Singh, Advocate for the petitioner.

Mr. Amit Gupta, Advocate for respondent.

.....

KULDIP SINGH, J. (Oral)

Impugned are the orders dated 31.8.2013 (Annexure P-3) passed by the learned Civil Judge (Senior Division), Gurdaspur, whereby the evidence of the plaintiff was closed by order and the order dated 20.10.2014 (Annexure P-6) passed by Civil Judge (Junior Division), Gurdaspur whereby the application under Section 151 CPC moved by the petitioner in pursuance to the order of this Court for permission to lead evidence was dismissed.

I have heard learned counsel for the parties. It is contended that the suit for specific performance was filed in which even after giving the undertaking to conclude the evidence, the plaintiff failed to conclude the evidence and consequently his evidence was closed by the order dated 31.8.2013 (Annexure P-3).

PREETI
2015.08.21 15:42
I attest to the accuracy and
integrity of this document
Chandigarh

Plaintiff approached this Court and this Court disposed of the matter vide the order dated 7.10.2013 (Annexure P-4) directing the petitioner to approach the lower Court and the Court was directed to follow the procedure referred to in ***Santosh Kumar Berry vs. Nirmala Devi and others*** in **CR No. 5639 of 2012** decided on 25.9.2012. In pursuance to the said order, an application was filed which was also dismissed on 20.10.2014 (Annexure P-6). A perusal of the file shows that it is the suit for specific performance. According to the plaintiff the deed writer and the clerk from the office of the Tehsildar could not be examined.

Learned counsel for the petitioner contends that only one opportunity needs to be given and that he will conclude the entire evidence on one date. The said contention is opposed by the counsel for the respondent who has stated that the petitioner has already availed the remedy before this Court and the second application was also dismissed. I am of the view that without going into the technicalities of the matter, the Courts are there to do the real justice between the parties. It for after one or the other reasons, the plaintiff could not lead evidence for his own fault, the opposite party can be compensated in terms of the costs.

The case is at the stage of evidence of the defendant. Therefore, in order to do the real justice between the parties, present revision petition is allowed and the plaintiff is granted one opportunity to produce the said witnesses and examine them. They shall also be

PREETI
2015.08.21 15:42
I attest to the accuracy and
integrity of this document
Chandigarh

cross-examined on said date. Plaintiff is burdened with the cost of Rs. 10,000/- to be payable to the opposite party for causing delay.

In view of the above, the petition is allowed.

(KULDIP SINGH)
JUDGE

14.8.2015
preeti

PREETI
2015.08.21 15:42
I attest to the accuracy and
integrity of this document
Chandigarh