

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 8298 of 2014 (O&M)
Date of Decision:13.03.2015

Charanjit Kaur @ Rajinder Kaur (deceased) thorough her LR
... Petitioner

v/s

Kulbir Kaur and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Ms. Bhupinder Kaur, Advocate
for the petitioner.

Mr. T.S. Rai, Advocate
for the respondents.

Sabina, J.

Petitioner has filed this petition under Article 227 of Constitution of India challenging the orders dated 30.07.2014 (Annexure P-1) and dated 21.11.2014 (Annexure-P5).

Learned counsel for the petitioner has submitted that PW-2 was present in the Court on the date fixed, but PW-3 could not be produced before the Court for his cross-examination as he was admitted in the hospital on the date fixed. Learned counsel has submitted that the petitioner be granted one opportunity to enable her to conclude her entire evidence.

Learned counsel for the respondents on the other hand, has opposed the petitioner.

Charanjit Kaur had filed suit for declaration to the effect that she was onwer in possession of the property in question on the basis of Will dated 17.04.2007 executed by her husband. During the pendency of the suit Charanjit Kaur died and her L.R. was brought on record to pursue the suit.

In case, petitioner is not allowed to lead his entire evidence, he will suffer an irreparable loss.

In view of the submissions made by learned counsel for the petitioner, it would be just and expedient to grant one opportunity to the petitioner to enable him to lead his evidence at his own risk and responsibility. Moreover the other side can be compensated with costs. Respondents will not suffer any prejudice as they will get an opportunity to cross examine the witnesses sought to be examined by the petitioner.

Accordingly, this petition is allowed. Impugned orders dated dated 30.07.2014 (Annexure P-1) and dated 21.11.2014 (Annexure-P5) are set aside. Trial Court is directed to grant one opportunity to the petitioner to enable him to lead his entire evidence at his own risk and responsibility subject to payment of ₹5000/- as costs. Costs be disbursed to the defendants. Thereafter, the Trial Court shall proceed further with the case, in accordance with law.

(SABINA)
JUDGE

13.03.2015
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