

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

CR-8864-2015

Date of decision: 24.12.2015

Shiksha Devi

...Petitioner

Versus

Raj Kumar and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Saurabh Arora, Advocate for the petitioner

SNEH PRASHAR, J.

By filing the present revision petition under Article 227 of the Constitution of India, the petitioner has assailed the order dated 21.9.2015 passed by learned Civil Judge, Junior Division, Bilaspur vide which her evidence was closed by order. She prays for grant one last opportunity to examine her remaining two witnesses.

The petitioner- plaintiff filed a suit for declaration and permanent injunction seeking to restrain the respondents -defendants from interfering in her possession. The respondents filed written statement contesting the suit. Issues were framed and the petitioner was called upon to produce evidence. When she failed to conclude her evidence despite adequate opportunities availed, her

evidence was closed by the trial court by order dated 21.9.2015.

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

Learned counsel for the petitioner contends that the petitioner had deposited required expenses for examining her witnesses. The summons were not served upon the witnesses and the said fact was not taken into consideration by the learned trial Court while closing her evidence by order. Submitting that non examination of the witnesses namely the Lambardar of the village and neighbour of the petitioner will cause an irreparable loss to her, learned counsel prayed that just one last opportunity be granted to the petitioner to examine both the said witnesses in her evidence.

The case is still at the stage of defendant's evidence. If the petitioner/plaintiff is granted one last opportunity to examine her two witnesses, it will not cause any prejudice to the defendants/respondents as he will get adequate opportunity to rebut the evidence offered by them. Accordingly, 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 her abovestated two witnesses, which might 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 21.9.2015 is set aside and the learned trial Court is directed to grant one effective opportunity to the petitioner to examine the Lambardar and her neighbour subject to deposit of Rs.2000/- as costs with the District legal Services Authority, Yamunanagar at Jagadhri. The petitioner will produce the witnesses at her own risk and responsibility on the date so fixed by learned trial Court.

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

24.12.2015
gsv

(SNEH PRASHAR)
JUDGE