

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 1361 of 2016

Date of Decision:23.2.2016

Maharaja Land Developers Private Limited

---Petitioner

vs.

Smt. Puro and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Mohinder Kumar, Advocate
for the petitioner

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J.

The present petition lays challenge to order dated 30.10.2015 passed by the Additional Civil Judge (Senior Division), Rupnagar, whereby evidence of the petitioner /plaintiff has been closed by order.

The petitioner has filed a suit for specific performance of the agreement to sell dated 17.12.2005 in respect of suit land, detailed in para 3 of the petition, on payment of balance sale consideration. Counsel for the petitioner contends that though the petitioner has availed a number of opportunities for adducing evidence, in the facts and circumstances, the

petitioner may be allowed two effective opportunities to conclude remaining evidence as the petitioner wants to examine the attesting witnesses of the agreement to sell. It is further contended that Sh. B.S.Thind, Advocate, earlier engaged by the petitioner was not pursuing the case properly and for that reason, the petitioner engaged a new counsel Sh. D.S.Deol, Advocate, in the suit. The last submission made by counsel is that no prejudice would be caused to the respondent for delay as they can be compensated with costs.

I have heard counsel for the petitioner and perused the records.

On a pointed query raised by the Court, counsel has fairly conceded that the trial court adjourned the case 21 times for evidence of the petitioner and the petitioner availed 16 effective opportunities for adducing evidence and on five occasions, the case was adjourned for cross examination of the petitioner's witnesses at the instance of opposite counsel. The petitioner engaged another counsel in November 2014 and thereafter also the case was adjourned many a times for evidence of the petitioner. It appears that the petitioner has only examined two witnesses despite the case having remained pending for a period of about four years for adducing evidence since framing of issues on 16.10.2010. There is nothing on record suggestive of the fact that the petitioner deposited diet money for summoning any witness much less submitted a list of witnesses. On the contrary, perusal of the zimni orders would reveal that the case was adjourned many a times with last opportunity for adducing evidence by the petitioner but still the court showed too much of leniency by adjourning the case repeatedly for the same purpose and even costs were imposed. The

petitioner is not entitled to any indulgence of the Court in the given circumstances as it has consumed almost five years for adducing evidence but still failed to conclude the same without any tangible explanation. I am well conscious that rules of procedure are meant for enhancement of justice but keeping in view the above, allowing the present petition would be nothing short of abuse of process of law in flagrant violation of the rules of procedure.

In view of what has been discussed hereinabove, finding no merit, the petition is dismissed in limine.

(Rekha Mittal)
Judge

23.2.2016
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