

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

-.-

Civil Revision 5215 of 2016 (O&M)
Date of decision: 29.08.2016

Niranjan Singh thr Smt. Kanta Devi acting his next friend Petitioner

Versus

Asha Nand

.....Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Dheeraj Mahajan, Advocate
 for the petitioner

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Rekha Mittal, J. (Oral)

CM 16803-CII of 2016

Allowed as prayed for and annexures P9 and P10 are taken on
record, subject to just exceptions.

Civil Revision No. 5215 of 2016

The present petition has been directed against order dated
12.07.2016 passed by the Civil Judge (Senior Division) Gurdaspur whereby
evidence of the petitioner, has been closed by order of the Court.

Counsel for the petitioner has submitted that the suit has been
filed by Niranjan Singh through Smt. Kanta Devi, his wife on the plea that
Niranjan Singh is a person of unsound mind and the alleged sale deed dated
23.02.2005 purported to be executed by the plaintiff in favour of the
defendant for sale of land measuring 10 marlas is illegal, null and void,
forged and fabricated. The issues were framed in the year 2013 and Smt.
Kanta Devi tendered into evidence her affidavit by way of examination-in-

chief on 10.02.2014 and her cross examination remained pending for quite sometime. Before her cross examination could be concluded, on 15.07.2015, the trial Court noticed that an inquiry, in compliance with the provisions of Order 32 Rule 15 of the Code of Civil Procedure (in short, 'CPC') is required to be conducted, thus, the case was fixed for conducting inquiry. Niranjana Singh was produced in the Court and after satisfaction recorded by the Court that Niranjana Singh was not able to tell his name and appears to be a person of unsound mind, the Court ordered for medical examination of Niranjana Singh vide order dated 22.09.2015. Subsequent thereto, the case was adjourned repeatedly for awaiting report from Government Medical College Amritsar. It is further argued that the petitioner filed an application for summoning Dr. P D Garg through process of the Court and application was allowed on 21.05.2016 but diet money was deposited on 11.07.2016. Smt. Kanta Devi wife of the petitioner remained busy in looking after her husband and pursuing the litigation and for that reason, there was delay in deposit of diet money. The last submission made by counsel is that as the trial Court itself is seeking report from Dr. P D Garg, Prof. & Head, Department of Psychiatry, Govt. Medical College, Amritsar and the petitioner also wants to examine the same doctor to substantiate the plea that Niranjana Singh is a person of unsound mind, it would be in the interest of substantial justice, if the petitioner is permitted to examine Dr. P.D.Garg by affording him one effective opportunity for the purpose.

I have heard counsel for the petitioner, perused the paper book and various zimini orders, part of the records.

The submissions made by counsel for the petitioner that the case is still pending for awaiting report from Principal Government Medical

College, Amritsar as well as Dr. P D Garg, Prof. & Head, Department of Psychiatry, Govt. Medical College, Amritsar, required for the purpose of inquiry in compliance with the provisions of Order 32 Rule 15 CPC, is substantiated from the zimini orders. The petitioner was permitted to deposit diet money for summoning Dr. P D Garg though the diet money was deposited at a belated stage. In the given circumstances that the Court itself has called a report from Dr. P D Garg, it would be in the fitness of things if the petitioner is permitted to examine Dr. P.D.Garg.

Accordingly, the petition stands disposed of and the petitioner is permitted to examine Dr. P D Garg as a witness, subject, however, to the condition that the petitioner shall ensure presence of the witness before the Court on the date to be fixed by the Court for his examination.

Before parting with the order, it is clarified that the instant petition has been disposed of without notice to the respondent in order to avoid inconvenience and incurring expenditure by the respondent. However, if the respondent has any grievance to express, he shall be at liberty to file an appropriate application before this Court.

(Rekha Mittal)
Judge

29.08.2016
mohan bimbira

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No