

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

CR No.698 OF 2016
DATE OF DECISION : 6TH MAY, 2016

Sharda Devi

.... **Petitioner**

Versus

Chander Kant

.... **Respondent**

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

* * * *

Present : Mr. Deepak Aggarwal, Advocate for the petitioner.

Mr. Ankush Singla, Advocate for
Mr. Abhishek Singla, Advocate for the respondent.

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DARSHAN SINGH, J.

1. The present revision petition has been preferred against the order dated 04.01.2016 passed by learned Civil Judge (Junior Division), Bathinda, vide which the right of the petitioner to cross-examine PWs Chander Kant and Jagtar Singh, has been treated to be nil.

2. I have heard Mr. Deepak Aggarwal, Advocate counsel for the petitioner and Mr. Ankush Singla, Advocate counsel for the respondent and carefully gone through the paper book.

3. Learned counsel for the petitioner contended that the respondent-plaintiff has filed the suit for possession by way of specific performance of agreement to sell dated 06.02.2012. He further contended that father-in-law of the counsel for the petitioner was admitted in hospital at Ludhiana so he could not cross-examine the

plaintiff's witnesses who were present in the court on 07.12.2015. He further contended that the father-in-law of the counsel for the petitioner had expired on 18.12.2015. Due to that reason her counsel was not attending the Court and could not cross-examine the witnesses. He further contended that one opportunity may be given to the petitioner-defendant to cross-examine PWs Chander Kant and Jagtar Singh as valuable rights of petitioner are involved with the suit.

4. On the other hand, learned counsel for the respondent contended that sufficient opportunities were granted to the petitioner-defendant to cross-examine the witness but counsel for the petitioner did not come forward. Even on 04.01.2016 her counsel was present in the Court but did not cross-examine the witnesses. Thus, he contended that the learned trial Court has rightly closed the right of the petitioner to cross-examine the PWs Chander Kant and Jagtar Singh.

5. I have duly considered the aforesaid contentions. The contentions raised by learned counsel for the petitioner that the counsel for the petitioner could not attend the court on 04.01.2016 due to the death of his father-in-law is against the record. The impugned order dated 04.01.2016 shows that Mr. Amandeep Singh, Advocate counsel for the defendant has appeared. It is not mentioned in the order that some proxy counsel has appeared for the petitioner. Even then he has not cross-examined PWs Chander Kant and Jagtar Singh but at the same time there is no dispute to the fact that as the suit relates to the specific performance of the agreement

to sell filed against petitioner, so her valuable rights are involved in the suit. She should not be deprived to effectively defend the suit due to negligence or inaction on the part of her counsel. For the inconvenience caused to the plaintiff and his witnesses, the petitioner can be well burdened with heavy costs. Learned counsel for the petitioner has sought only one opportunity to cross-examine both the witnesses i.e. Chander Kant and Jagtar Singh.

6. Thus, keeping in view my above said discussion, the present revision petition is hereby allowed. Learned trial Court is directed to afford one opportunity to the petitioner-defendant to cross-examine PWs Chander Kant and Jagtar Singh, subject to ₹7,000/- as costs.

6th MAY, 2016
'raj'

(DARSHAN SINGH)
JUDGE