

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

Civil Revision No.7075 of 2016

Date of decision : 26.10.2016

Ramesh Kumar

.....Petitioner

Versus

Mohinder Pal

...Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Varun Sharma, Advocate for petitioner.

DARSHAN SINGH, J.

The present revision petition has been preferred against the order dated 03.09.2016 passed by the learned Additional Civil Judge (Junior Division), Jalandhar vide which the application moved by the petitioner-defendant for leading additional evidence has been dismissed.

2. I have heard learned counsel for the petitioner and have gone through the paper-book carefully.

3. Learned counsel for the petitioner-defendant contended that though the evidence was closed by petitioner-defendant himself but he wants to produce two witnesses namely Smt. Krishna Goel and Raghbir Singh in order to show that father of the petitioner had got no right to transfer the suit property and the property was purchased out of the joint funds of the family. He contended that the aforesaid evidence is essential for

the just decision of the case and the learned trial Court has wrongly dismissed the application.

4. I have duly considered the aforesaid contentions.

5. Respondent-plaintiff Mohinder Pal the brother of the petitioner has filed the suit for mandatory injunction directing the petitioner to hand-over the vacant possession of the suit premises on the ground that the property in dispute has been transferred to him by his father.

6. This fact is not disputed that petitioner-defendant has already closed his evidence on 05.02.2016. Now the petitioner wants to examine Smt. Krishna Goel and Raghbir Singh in the additional evidence to show that their father had no authority to transfer the property in favour of the plaintiff and the same was purchased out of the joint funds of the family. The petitioner had already availed sufficient opportunities to adduce the evidence and thereafter, the evidence was voluntarily closed by the defendant. No plausible explanation has been given in the application as to why these witnesses could not be produced earlier by the defendant despite exercise of due diligence. There is also no material available on record to show as to how these witnesses have the knowledge regarding the title of the father of the parties and the source of the acquisition of the suit property. Thus, their oral testimony will be of no assistance to the Court to arrive at just conclusion of the case.

7. Thus, keeping in view my aforesaid discussion, the impugned order passed by learned trial Court does not suffer from any legal infirmity to invite any interference by this Court.

8. Resultantly, the present revision petition is without any merit and the same is hereby dismissed.

26.10.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No