

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CR No. 8193 of 2016(O&M)

Date of decision :05.12.2016

Amarjit Singh

.....Petitioner

Versus

Gulzar Kaur and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.J.S.Bagga, Advocate
for the petitioner.

DARSHAN SINGH, J. (Oral)

The present revision petition has been preferred against the order dated 17.08.2016 passed by the learned Civil Judge (Jr. Division), Chandigarh, vide which the evidence of the plaintiff has been closed and the order dated 16.11.2016 passed by the learned trial Court vide which the application moved by the petitioner-plaintiff for recalling the order dated 17.08.2016, has been dismissed.

2. I have heard Mr. J.S.Bagga, Advocate, learned counsel for the petitioner and have carefully gone through the paper book.

3. Learned counsel for the petitioner contended that due to closure of his evidence by the learned trial Court, the petitioner could not examine the official of the office of Sub-Registrar to prove the copy of the power of attorney and two Wills. He contended that the proving of these documents was very essential for the just decision of the case. He contended that all these documents are registered documents. The petitioner has already deposited the expenses to summon this witness. He may be afforded one opportunity to produce that witness in his evidence.

4. I have duly considered the aforesaid contentions.

5. The petitioner-plaintiff has filed the suit for declaration to the effect that he has become the sole and absolute owner in possession having the possessory right/title in respect of house No. 797, Sector-52, Village Kajheri, U.T.Chandigarh by virtue of agreement to sell-cum-receipt of full and final consideration, general power of attorney, affidavit and Will dated 23.12.1997 executed by defendants no.1 and 2 in his favour. He also sought the declaration that the defendant-respondents have no right and competence to revoke and cancel the said general power of attorney and Will dated 23.12.1997 as the said documents were irrevocable. In the alternative, he sought the decree for specific performance of the agreement to sell dated 23.12.1997. In the consequential relief, he also sought the decree for permanent injunction.

6. Learned counsel for the petitioner contended that the petitioner-plaintiff wants to examine the official of the office of the Sub-Registrar, Mohali to prove the power of attorney and Wills. At the time of the arguments, learned counsel for the petitioner has also contended that the original documents were available with the petitioner-plaintiff. Copy of the impugned order dated 16.11.2016 shows that the said witness was required to be summoned to prove the documents Ex.P-1, Ex.P-4 and Ex.P-5. When the original documents i.e. agreement to sell, power of attorney and Will were available with the petitioner-plaintiff, then what was the need to summon and examine the official from the office of Sub-Registrar, Mohali to prove those documents. The execution of those documents is to be proved by examining the attesting witnesses and not by examining the official of the office of Sub-Registrar. So, I do not find any substance in the plea

raised by learned counsel for the petitioner that examination of that witness was essential for the just decision of the case.

7. Moreover, the petitioner has already availed 12 effective opportunities to complete his evidence including the last opportunities. In the impugned order dated 16.11.2016, the learned trial Court has mentioned that the last and final opportunity was given to the plaintiff to conclude the entire evidence on 17.08.2016 and in that order a clear cut direction was given that in case he failed to complete his evidence on 17.08.2016, then his evidence will be closed by the Court order. Thus, in these circumstances, more than adequate opportunities have already been granted to the petitioner by the learned trial Court.

8. Consequently, the impugned orders does not suffer from any illegality. Therefore, it does not call for any interference by this Court.

9. Thus, the present revision petition having no merits, is hereby dismissed.

05.12.2016

S.khan

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No