

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No.8308 of 2016
Date of Decision: 8.12.2016

Jai Kishan and another

---Petitioners

versus

Raj Pal

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr.Arun Sharma, Advocate
for the petitioners

Rekha Mittal, J.

The present petition directs challenge against order dated 10.11.2016 (Annexure P-1) passed by the trial court whereby evidence of the petitioners/defendants was closed by order.

Counsel for the petitioners has submitted that the respondent/plaintiff has filed a suit for specific performance of contract dated 8.5.2012 with consequential relief of permanent injunction while assailing relinquishment deed dated 19.6.2012. Evidence of the respondent/plaintiff was concluded on 16.8.2016 and the case for the first time was fixed for evidence of the petitioners/defendants on 1.9.2016. Though the trial court in a short span of time with effect from 1.9.2016 till 10.11.2016 adjourned the case on several occasions but the Court closed right of the petitioners to adduce evidence almost within a period of two months. It is further submitted that a serious prejudice shall be caused to the petitioners in case they are not permitted to tender themselves in witness

box for rebutting the evidence adduced by the respondent/plaintiff. It is prayed that the petitioners may be allowed one effective opportunity to examine themselves before the trial court. It is further submitted that after closing of evidence of the petitioners, there is no progress in the proceedings as the respondent/plaintiff has not adduced any evidence in rebuttal and the case is now fixed for 13.12.2016.

I have heard counsel for the petitioners, perused the paper book particularly the order impugned.

A plain reading of the impugned order would indicate that the trial court has closed right of the petitioner to adduce evidence with the observations that they have already availed several opportunities. The petitioners in para 3 of the petition have given details of the opportunities granted to them with effect from 1.9.2016 till 10.11.2016. Keeping in view the principle of natural justice coupled with that fair opportunity must be provided to each of the party to present its case before the court unless a litigant is attributed malice and mala fide, in the interest of substantial justice, the petitioners are allowed one opportunity to examine themselves subject to the following conditions:-

1. The petitioners would supply a copy of their affidavit to be tendered in examination in chief to counsel opposite in advance.
2. They shall ensure their presence before the trial court on the date fixed i.e. 13.12.2016 for examination and cross examination.

In case, the petitioners fail to comply with the aforesaid directions, the petition shall be deemed to be dismissed.

Disposed of.

Before parting with the order, it is clarified that the petition has been disposed of without notice to the respondent in order to avoid inconvenience and incurring expenditure. 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

8.12.2016

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No