

Civil Revision No.8612 of 2016

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In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No.8612 of 2016

Date of Decision: 21.12.2016

Rupinder Kaur

--- Petitioner

versus

Mohinder Singh and another

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. B.D.Sharma, Advocate
for the petitioner**

Rekha Mittal, J.

The present petition directs challenge against order dated 5.10.52016 (Annexure P-3) passed by the Additional Civil Judge (Senior Division), Khadoor Sahib whereby evidence of the petitioner/defendant has been closed by order.

Counsel for the petitioner has submitted that the respondent-plaintiff has filed a suit for possession by way of specific performance of agreement to sell dated 24.4.2008 with a prayer for recovery of Rs. 30 lakhs

in the alternative and consequential relief of permanent injunction. The issues in the case were framed on 9.3.2016 and evidence by the plaintiff/respondent was closed on 29.8.2016 and thereafter the case was adjourned to 14.9.2016 for evidence by defendant No. 1 (petitioner herein). The petitioner was provided with three opportunities to adduce evidence in a short span of less than one month and the evidence was closed on 5.10.2016 and the case was adjourned to 18.10.2016 for evidence of defendant No. 2. It is further submitted that till date, defendant No. 2 has not adduced any evidence and the case is now pending for 6.1.2017. It is prayed that the petitioner may be allowed one opportunity to tender herself in the witness box on the date already fixed for evidence of defendant No. 2. According to counsel, a serious prejudice is likely to ensue in case the petitioner is not permitted to examine herself to rebut the evidence adduced by the respondent/plaintiff.

I have heard counsel for the petitioner, perused the paper book particularly the various zimni orders reproduced in the grounds of revision.

Perusal of the zimni orders dated 14.9.2016 onwards makes it evident that evidence of the petitioner has been closed by the Court below

within a period of less than one month though the case was adjourned thrice for evidence of defendant No. 1. As has been argued by counsel for the petitioner, the case is now fixed for evidence of defendant No. 2 for 6.1.2017 and there is no progress in the proceedings since evidence of the petitioner was closed by order. Taking into consideration the principle of natural justice and fair opportunity coupled with the serious consequences likely to follow in case the petitioner is not permitted to examine herself as a witness, the petitioner is allowed one effective opportunity to examine herself as a witness subject to the following conditions:-

1. The petitioner shall supply a copy of the affidavit to be tendered in examination in chief well in advance to counsel opposite.
2. She shall ensure her presence before the Court on 6.1.2017 for her examination and cross examination.

Failure of the petitioner to comply with the abovesaid conditions would entail dismissal of the petition.

(Rekha Mittal)
Judge

21.12.2016

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No