

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

CR No.5923 of 2017

Date of decision : 05.09.2017

Harpreet Kaur

...Petitioner

Versus

Teja Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. P.L. Singla, Advocate for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff is in revision petition against the order dated 11.08.2017 passed by Civil Judge (Junior Division), Phillaur, closing the evidence of the plaintiff on the ground that the plaintiff has already availed 26 opportunities to lead evidence.

Plaintiff had filed a suit for specific performance of the agreement to sell dated 05.03.2011. In this case, issues were framed on 19.09.2015.

No doubt, the observation of the Court that the plaintiff has already availed 26 opportunities shows the anguish of the Court. However, the suit is for specific performance of the agreement to sell, plaintiff has affixed a Court fee of ₹1,92,500/-. The suit was instituted in the month of September, 2012.

It is further clear from the reading of the order passed that on

11.08.2017, Bachittar Singh was present but his evidence was not recorded on the ground that the case is only fixed for cross-examination.

Since, the evidence of the plaintiff was going on, the Court was in error in refusing to examine the witness who was present and available for being examined in evidence.

Although, the conduct of the plaintiff is deplorable as in a suit for specific performance of the agreement, the plaintiff has already availed 26 opportunities. However, in the facts and circumstances of the case, I deem it proper to allow the plaintiff to examine Bachittar Singh by granting one opportunity. Bachittar Singh-witness would be examined by the plaintiff on 08.09.2017 at his own responsibility. This opportunity would be subject to the payment of the cost of ₹20,000/-.

Since the order is being passed without issuing notice, the defendants shall be at liberty to move an application for recall of the same, if so advised.

In view of the above, the present revision petition is allowed.

05.09.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No