

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.7278 of 2016 (O&M)

Date of Order:04.08.2017.

Sham Lal Goyal and another

..Petitioners

Versus

M/s R.R.Industries and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kulbhushan Sharma, Advocate,
for the petitioners.

Mr. Jaswinder Singh, Advocate,
for respondents no.1 to 3.

Mr. Arvind Rajotia, Advocate,
for respondent no.4.

Mr. S.K.Mahajan, Advocate,
for respondent no.5.

Mr. Vikas Kumar, Advocate,
for respondent no.6.

ANIL KSHETARPAL, J(Oral)

Plaintiffs-petitioners are in revision petition against order passed by the trial court, closing the evidence of the plaintiffs. Plaintiffs had filed a suit for specific performance of agreement to sell dated 01.12.2009, in respect of industrial plot no.89, Sector 24, NIT, Faridabad. The plaintiffs while filing the suit had affixed court fee on the value of the agreement i.e. Rs.3 crores 40 lacs.

In this case, after completion of the pleadings, the trial Court framed issues on 23.09.2014 and plaintiffs were directed to lead their evidence on 10.1.2014. It is the allegations of the respondents that 7 opportunities were granted and it is thereafter the evidence was closed on 11.09.2015. Counsel for the respondents further submits that once

plaintiffs have been granted 7 opportunities, although, 3 are required to be given as per amended provision of CPC, no further opportunity can be granted. Plaintiffs have been given more than enough opportunities. Learned counsel for the respondent has further submitted that defendants have also closed their evidence on 07.09.2016.

Whereas learned counsel for the petitioners has submitted that even the plaintiffs have not been examined. This Court while issuing notice of motion, passed an order dated 27.10.2016, which reads as under:-

“Impugned order was passed way-back in September, 2015. Evidence of the petitioners was closed by order. Though, it is not clear why petitioners remained quiet for so long. It is vehemently contended before the court that evidence of plaintiff-petition is necessary in the suit for specific performance. According to counsel, petitioners paid Rs.10.00 lacs as earnest money and Rs.40.00 lacs as lease amount. According to him, agreement to sell has been denied by the defendants. It appears that necessary documents are already on record. This court intends to issue notice of motion for the limited purpose to examine whether evidence of plaintiff-petitioner & marginal witnesses is necessary for arriving at just decision by the trial Court.

Notice of motion for 10.11.2016 subject to payment of Rs.30,000/- as costs to be remitted to respondents.

Process dasti as well.

Learned counsel shall be at liberty to effect service on respondents through their counsel in the Court below.”

Although, there is no justification to grant further opportunity to the plaintiffs, if provisions of amended CPC are taken into consideration.

However, since the plaintiffs had paid huge court fee and the trial is almost at the fag end, therefore, I deem it appropriate to grant the plaintiffs two more effective opportunities to lead their evidence within a period of one month from today, in the interest of justice.

Since the defendants have already concluded their evidence, therefore, all the defendants would be given one opportunity to lead evidence thereafter, within next 15 days in reply to the evidence led by the plaintiffs.

The trial Court shall conclude the trial of the case within one month thereafter i.e., 2½ months from today. However, since plaintiffs have been thoroughly negligent in prosecuting their case, two opportunities are being granted, subject to additional costs of Rs.50,000/-, apart from what was ordered by the Court while issuing notice of motion. The cost of Rs.50,000/- to be deposited with the District Legal Services Authority.

Revision petition stands disposed of accordingly.

August 04, 2017
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No