

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

119

CR No.1141 of 2017 (O&M)

Date of decision: 26.02.2018

M/s Clarion Properties Ltd.

..... Petitioner

Versus

Legend Homes R.W.A. and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. G.S. Bhandal, Advocate
for the petitioner.

Mr. Bhupender Pratap Singh, Advocate
for respondent No.1.

ANIL KSHETARPAL, J. (ORAL)

Defendant No.3-petitioner is in the revision petition against the order dated 04.02.2017 closing the evidence of defendant No.3-petitioner and treating the evidence led by tendering an affidavit to be not read as part of file on the ground that the witness has not appeared for cross-examination. Defendant No.3 had produced Sh. Kamal Gupta and submitted his affidavit in examination-in-chief. The case was adjourned to 04.02.2017. Prayer was made on 04.02.2017 that Sh. Kamal Gupta is in Mumbai and he is likely to come back on the next day i.e. 05.02.2017. However, the Court not only closed the evidence of defendant No.3 but also held that the affidavit submitted by Kamal Gupta in examination-in-chief shall not be read in evidence as he has not appeared for cross-examination.

In the considered opinion of this Court, although it is appreciable for the Courts to expeditiously decide the cases, however, the

parties have to be given proper opportunity to lead evidence. Such being the position, this Court feels that defendant No.3 deserves to be given one more opportunity to conclude his entire evidence. Learned counsel for the parties has submitted that next date in the case is 07.03.2018.

Learned counsel for the petitioner-defendant No.3 submits that he shall be examining Kamal Gupta who would be present in the Court on 07.03.2018 for cross-examination. He also undertakes that if any other witness is required to be examined, his affidavit in lieu of examination-in-chief shall be supplied to counsel for the plaintiff in advance at least three days before the date fixed.

Learned counsel for the petitioner has also made a statement that he does not wish to press the application under Section 10, CPC.

In view thereof, defendant No.3-petitioner shall be granted one effective opportunity for his entire evidence and preferably this evidence shall be recorded on 07.03.2018, the date already fixed. However, this opportunity shall be subject to the payment of cost of Rs.10,000/-.

Revision petition is disposed of.

26.02.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No