

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

C.R. No.1673 of 2018 (O&M)

Date of Decision.28.03.2018

Baljit Kaur

.....Petitioner

Vs

Inder Deep Singh and others

.....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ramesh Sharma, Advocate
for the petitioner.

-:-

AMIT RAWAL J.(ORAL)

C.M. No.6050-CII of 2018

Application is allowed.

Zimni orders are taken on record as Annexure P-6 (colly).

C.R. No.1673 of 2018

Learned counsel for the petitioner submits that the issues in the
aforementioned case were framed on 4.1.2016 and the matter for evidence
of the plaintiff was listed for 18.03.2016. On 18.03.2016, no witness was
present and the case was adjourned to 10.05.2016. However, the case was
taken on 06.05.2016 as the Presiding Officer was on leave and the case was
adjourned to 01.8.2016. On 1.8.2016 also, there was on PW present and the
case was adjourned to 23.08.2016 and then for 29.09.2016. On 29.09.2016,
an application was moved by the plaintiff for calling upon the defendant to
admit or deny the sale deed dated 30.03.1973. The same came to be
adjudicated but during the pendency, another application was moved by
defendant No.2 under Order 11 Rule 12, 14, 15 and 16 CPC and both the
application were adjourned. However, on 16.02.2017, another application

was filed by the plaintiff for clarification. Notice of the same was given and

ultimately on 08.03.2017, the counsel for the defendant withdrew his earlier application vide separate statement and the case was adjourned to 29.03.2017. On 29.03.2017 and 05.04.2017, the case was adjourned due to non-filing of the reply in the application under Order 11 Rule 12, 14, 15 and 16 CPC which was ultimately filed on 03.05.2017 and the case was adjourned to 19.05.2017 for consideration. On 19.05.2017, another application under Order 6 Rule 17 CPC was filed and time was given to the counsel representing other side for filing reply and as well as reply to the application moved under Order 11 Rule 12 and 14 CPC. Though reply to the application under Order 6 Rule 17 CPC was filed on 06.07.2017 but reply to the application moved under Order 11 Rule 12 and 14 CPC was not filed. The case was further taken on 18.07.2017 on which date defendant had given no objection to the amendment and the application for amendment under Order 6 Rule 17 was allowed subject to payment of costs of ₹200/- and the matter was posted for filing reply in the application under Order 11 Rule 14. On 19.08.2017, amended written statement and reply to application under Order 11 Rule 12 was not filed and the matter was again posted for filing reply for 04.09.2017. The matter was further adjourned to 07.09.2017 and on 07.09.2017, reply to the application under Order 11 Rule 14 had been filed and the case was adjourned to 13.09.2017 for consideration of the application. On 13.09.2017 the application was disposed of and the case was adjourned to 28.09.2017 directing the plaintiff to produce on record power of attorney executed by plaintiff in favour of Darshan Singh, which was not produced on the adjourned date and the case was further adjourned to 09.10.2017 with direction to the plaintiff to produce the aforementioned document. On 9.10.2017 also, the document

was not produced and the matter was adjourned to 16.10.2017. On 16.10.2017, power of attorney was produced and matter was listed for evidence of plaintiff for 03.11.2017 and further adjourned to 04.12.2017. On 4.12.2017 no PW was present and the case was adjourned to 20.12.2017 and upto 02.01.2018, no PW was present and the matter was again posted for 08.01.2018. On 08.01.2018, the evidence of the plaintiff was closed and the matter was fixed for 23.01.2018 for cross-examination of PW1 Harjinder Singh.

Learned counsel for the plaintiff submits that the plaintiff had filed the suit for declaration that he is owner and possession of the suit property i.e. constructed hotel measuring 3 kanals 8 marlas being 68/124 share, out of total land measuring 06 kanals 4 marlas on the basis of sale deed dated 30.03.1978 along with the super-structure by challenging the sale deed dated 12.01.2010 allegedly executed by the plaintiff in favour of Inder Deep Singh, defendant No.1 being a sham and null and void document.

All the aforementioned zimni orders as noticed above revealed that the plaintiff had been negligent in pursuing the matter especially in not producing the power of attorney on record and instead of addressing the issue involved adopted a lackadaisical approach in not examining the witnesses, resulting into passing of the aforementioned impugned order. However, in order to prevent miscarriage of justice and to do justice, I deem it appropriate to grant one effective opportunity to the petitioner-plaintiff to examine all the witnesses. The petitioner shall file the application for list of witnesses and also deposit the diet money on the next adjourned date and shall obtain the dasti summons.

In view of the aforementioned, the order under challenge is set aside and the petitioner-plaintiff is granted one more effective opportunity to examine all the witnesses, subject to payment of costs of ₹20,000/-, which shall defray the litigation expenses of the respondents-defendants.

The revision petition stands allowed.

(AMIT RAWAL)
JUDGE

March 28, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No