

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

(1) Civil Revision No.2051 of 2018 (O&M)
Decided on:-April 17, 2018.

Kunda Singh.

.....Petitioner.

Versus

M/s Vikas House Building Company Pvt. Ltd. and another

.....Respondents.

(2) Civil Revision No.2207 of 2018 (O&M)

Inderjit Singh.

.....Petitioner.

Versus

M/s Vikas House Building Company Pvt. Ltd. and another

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. H.S. Brar, Advocate
for the petitioner in CR No.2051 of 2018.

Mr. Balram Singh, Advocate
for the petitioner in CR No.2207 of 2018.

Mr. Aayush Gupta, Advocate
for respondent No.1.

HARI PAL VERMA, J. (Oral)

This order shall dispose of the aforementioned two civil
revisions as the same have arisen out of a civil suit pending between the same

parties titled as “M/s Vikas House Building Company Pvt. Limited Versus Kunda Singh and another” pending before learned civil Court, Ludhiana.

By way of civil revision filed under Article 227 of the Constitution of India, petitioner-defendant No.1 Kunda Singh has challenged the order dated 26.02.2018 passed by learned Civil Judge (Junior Division), Ludhiana, whereby his evidence was closed by court order, whereas another civil revision has been filed by petitioner-defendant No.2 Inderjit Singh challenging the order dated 20.11.2015 passed by learned civil Court, whereby he was proceeded ex-parte as well as the order dated 19.03.2018, whereby the application for setting aside the ex-parte proceedings was dismissed by learned civil Court.

However, for convenience and clarity, detailed order is being passed in Civil Revision No.2051 of 2018.

Briefly stated, respondent-plaintiff had filed a suit for possession as owner by way of specific performance of the agreements dated 15.04.1997 and 30.05.2003 regarding the land as detailed in the plaint.

While the said suit was pending and the case was fixed for evidence of petitioner-defendant No.1, learned civil Court has closed his evidence vide impugned order dated 26.02.2018 observing therein that the defendant has availed many effective opportunities, the suit is 10 years old case and there is no justification to adjourn the case.

Learned counsel for the petitioner-defendants have argued that no doubt, the suit is 10 years old, but the delay can be attributed on the part of respondent-plaintiff as the plaintiff has taken more than 12 years to conclude

its evidence, whereas evidence of the petitioner-defendants started on 06.03.2017.

They have further contended that during pendency of the civil suit, the petitioner-defendants were not in India and were abroad. There was an FIR registered against them, wherein they were declared as proclaimed offenders. It is thereafter, the order declaring the petitioners as proclaimed offenders was set aside and pursuant thereto, the petitioners have surrendered before the trial Court and now, they are on anticipatory bail. Thus, because of the pendency of the criminal case, there was an impediment for the petitioner-defendants to conclude their evidence. Now, the petitioner-defendants undertake to conclude their evidence within a week and they would not like to delay their evidence.

On the other hand, learned counsel for respondent-plaintiff has argued that as the petitioners have already been granted adequate opportunities to conclude their evidence, there is no justification to grant further opportunity to them to conclude their evidence.

I have heard learned counsel for the parties.

The reason put forward by learned counsel for the petitioners that they could not lead their evidence as they were declared proclaimed offenders, appears to be justified. Every accused would like to avoid his arrest by one way or the other of course within the legal framework. In order to avail the legal remedy against the order of proclamation, the petitioners could not appear before the civil Court to lead their evidence probably and they

have filed separate criminal miscellaneous for quashing of the proceedings vide which they have been declared as proclaimed offenders.

Be that as it may, without making any further comment on the other litigations pending between the parties, the impugned orders dated 26.02.2018, 20.11.2015 and 19.03.2018 passed by the civil Court are set aside and the present civil revisions are disposed of with a direction that the civil Court shall provide one more effective opportunity to the petitioner-defendants to conclude their evidence. However, the petitioners would conclude their evidence before 26.04.2018, unless the Court grants any other opportunity subject to its satisfaction.

Photocopy of this order be placed on the file of other connected case.

April 17, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No