

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-4434-2016 (O&M)

Date of decision : 14.3.2018

Smt. Giano

..... Petitioner

Versus

Sudhir

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Ms. Simranjeet Kaur, Advocate for
Mr. Kulvir Narwal, Advocate for the petitioner.

Mr. Rajesh Hooda, Advocate for respondent.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment ?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest ?*

KULDIP SINGH J. (ORAL)

Impugned in the present revision petition is the order dated 5.5.2014 (Annexure P-5) passed by learned Civil Judge (Senior Division), Rohtak vide which evidence of the defendant was closed by court order and further impugned is the order dated 30.5.2016 (Annexure P-6) passed by learned Civil Judge (Senior Division), Rohtak vide which the application filed under Section 151 of the Code of Civil Procedure, 1908, for recalling the order dated 5.5.2014, was dismissed.

Learned proxy counsel for the petitioner submits that arguing counsel for the petitioner has gone out of station, therefore, adjournment is requested.

Considering the fact that present revision petition has been filed against the zimini order and the case is held up at the arguments stage.

Adjournment is declined.

I have heard the case of the defendant-petitioner with the assistance of proxy counsel for the petitioner.

It comes out that suit is for possession by way of specific performance of the agreement to sell. The impugned order dated 5.5.2014, (Annexure P-5) passed by learned Civil Judge (Senior Division), Rohtak shows that defendant was afforded four effective opportunities out of which two were the last opportunities. As per law, three opportunities are to be granted. Therefore, the evidence was closed by court order.

Considering that the valuable rights of the defendant are involved, the rules and procedures are not to be strictly applied and defendant needs to be given one more opportunity to conclude his evidence at his risk and responsibility, subject to payment of costs.

Accordingly, impugned orders dated 5.5.2014 (Annexure P-5) and 30.5.2016 (Annexure P-6), passed by learned Civil Judge, (Senior Division), Rohtak are set aside and Trial Court is directed to grant one more opportunity to defendant to conclude his evidence subject to payment of costs of Rs. 10,000/- for causing the delay to be paid to the plaintiff. The witness(s) shall be produced by the defendant at his own risk and responsibility. He can take the summons *dasti* but the trial Court will not compel the appearance of any of the witness(s). In any case, no further time shall be granted.

Allowed with the above observation.

Since, the main petition has been allowed, the miscellaneous application, if any, also stands disposed of.

14.3.2018
preeti

(KULDIP SINGH)
JUDGE