

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH.**

**CR No.5605 of 2018 (O&M)  
Decided on.28.08.2018.**

**Smt. Poonan Singh**

**.....Petitioner**

**Versus**

**Smt. Seeta Devi**

**.....Respondent**

**CORAM : HON'BLE MRS. JUSTICE LISA GILL**

Present: Mr.Manoj Kumar Sood, Advocate  
for the petitioner.

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**LISA GILL, J. (Oral)**

Petitioner is aggrieved of order dated 14.08.2018 (Annexure P-4), passed by learned Civil Judge (Sr. Division), Faridabad, whereby evidence of the petitioner was closed by order.

The petitioner has filed a suit for specific performance and permanent injunction claiming that the respondent is the owner in possession of House No. 1290-B, Block C, Faridabad. Respondent, it is claimed entered into an agreement to sell dated 24.06.2013 in favour of the petitioner for consideration of ₹21,50,000/-. Earnest money as detailed in the petition was paid. The matter was listed for evidence of the plaintiff-petitioner before the learned trial Court.

It is submitted that all other witnesses except Jang Bahadur i.e. the attesting witness of agreement to sell dated 24.06.2013 have since been examined. The said witness is a summoned witness. He was present on 16.01.2018, though, it is mentioned by the learned trial Court that no PW was present. Signatures of Jang Bahadur are very

much evident on the order sheet, a certified copy of which has been attached along with this petition (Annexure P-3). Cross-examination was not conducted by the respondent-defendant on 16.01.2018. The matter was adjourned subject to costs imposed upon the respondent-defendant. The matter was again adjourned to 23.02.2018 and last opportunity was afforded to the respondent-defendant to cross-examine the witnesses. Thereafter, Jang Bahadur the attesting witness of the agreement to sell, did not come present. It is contended that evidence of the petitioner-plaintiff has been closed by order by the learned trial Court vide impugned order dated 14.08.2018. Irreparable loss and manifest injustice shall be caused to the petitioner, in case, an opportunity is not afforded to examine Jang Bahadur, who is a material witness in this case being an attesting witness of agreement to sell. It is thus prayed that this petition be allowed and one effective opportunity be afforded to the petitioner to examine the said witness with a further prayer that the said witness be summoned as he is known to both the parties and earlier also appeared on summoning of the Court itself.

Heard learned counsel for the petitioner.

Keeping in view the nature of the relief claimed, the matter is being decided without issuance of notice to the respondent as the said course would lead to unnecessary delay in the proceedings before the learned trial Court.

There is no dispute that Jang Bahadur being an attesting witness of the agreement to sell dated 24.06.2013, is a material witness. He was summoned through process of Court. His presence is duly marked on 16.01.2018. His presence is indicated in order dated

23.02.2018.

Keeping in view the facts and circumstances of the case, it is appropriate to afford one effective opportunity to the petitioner for examining the said witness.

Therefore, this petition is allowed subject to deposit of ₹20,000/- as costs by the petitioner before the learned trial Court. Order dated 14.08.2018 is hereby set aside with a direction that said witness Jang Bahadur be summoned and one effective opportunity be afforded to the petitioner to examine the said witness.

Needless to say, in case, any factually incorrect averments have been made by the petitioner in this petition or projected before this Court, respondent is at liberty to move appropriate application in this case.

**28.08.2018**

S.khan

**(LISA GILL)  
JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No