

247 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 7688 of 2018
DECIDED ON: NOVEMBER 21, 2018

SWARAN KUMAR

.....PETITIONER

VERSUS

VARINDER KUMAR GHULIANI & OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Naresh Prabhakar, Advocate
for the petitioner.

Mr. Matinder Brar, Advocate
for respondent No.1

AVNEESH JHINGAN, J (ORAL)

The present civil revision petition under Article 227 of the Constitution of India, has been filed seeking quashing of order dated 28.09.2018 passed learned Civil Judge (Jr. Division), Phagwara (hereinafter referred to as 'trial Court').

2. The respondent No.1/plaintiff filed a suit for confirmation of possession by way of specific performance of the agreement to sell dated 25.02.2010 executed by respondent No.2/defendant No.1 through his general power of attorney petitioner/defendant No.2 in favour of respondent No.1/plaintiff in respect of property bearing Municipal No. B 43/38 situated on Central Town Road (Old Dana Mandi Road), Phagwara, Distt Kapurthala.

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The defence of petitioner/defendant No.2 was struck off by learned

trial Court vide order dated 30.03.2016. An application was filed by the petitioner/defendant No.2 for grant of permission to lead evidence. The learned trial Court rejected the application stating that petitioner/defendant No.2 had cross-examined the plaintiff's witnesses and the present application was filed after a period of 2 ½ years. Moreover, petitioner/defendant No.2 had not challenged the order dated 30.03.2016 whereby, his defence was struck off.

4. Learned counsel for the petitioner restricted his argument that petitioner may be permitted to join the proceedings only from the stage where the suit was at the time of filing of application for leading of evidence i.e. from 28.09.2018.

5. Learned counsel for respondent No.1 has resisted the aforesaid contentions raised by learned counsel for the petitioner but could not raise any serious objection with regard to the petitioner's joining the suit at the stage it was on the date of filing of application.

6. The contention raised by learned counsel for the petitioner deserves acceptance.

7. No prejudice would be caused to the to the petitioner/defendant No.2, if the petitioner is allowed to join the proceedings from the stage where the suit was at the time of filing of application i.e. on 28.09.2018.

8. The present civil revision petition is allowed, subject to petitioner's depositing ₹5,000/- as cost.

NOVEMBER 21, 2018
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*