

CR No.8108 of 2018

Date of Decision:29.11.2018

BALBIR SINGH

...PETITIONER

Versus

ANITA SHARMA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

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

AVNEESH JHINGAN, J. (ORAL)

The order dated 17.10.2018 passed by the Civil Judge (Jr. Division), Payal (hereinafter referred to as “ the trial Court”), closing the oral evidence of the petitioner/plaintiff (hereinafter referred to as “the petitioner”) has been assailed in the instant civil revision petition.

A suit for specific performance of sale agreement was filed before the trial Court. The pleadings were completed and issues were framed on 16.11.2015. On 03.02.2016 an application for obtaining the specimen signatures of the respondent/defendant (hereinafter referred to as “the respondent”) was filed. The said application was allowed on 19.04.2017. The specific signatures were given by the respondent on 12.07.2017. Thereafter, an application seeking amendment in the plaint was filed, which was dismissed vide order dated 06.09.2018. The case was fixed for 14.09.2018 providing opportunity to the petitioner to lead evidence which was further adjourned for 17.10.2018 on 03.10.2018. On 17.10.2018, three witnesses were examined by the petitioner and the Ld. trial Court

closed the oral evidence of the petitioner by reserving his right of cross examination of PW-2 and PW-3. Aggrieved of the said order, the present petition is filed.

To avoid further delay in the suit proceedings, it is not considered necessary at this stage to issue notice to the respondent.

Learned counsel for the petitioner submitted that only two more witnesses are to be examined by the petitioner/plaintiff and one last effective opportunity be provided to the petitioner. He further states that the case is now fixed for 05.12.2018.

From the facts noted above, one thing is evident that it is not a case where there is an intentional delay. Already three witnesses have been examined on 17.10.2018.

In the interest of justice, the order dated 17.10.2018, closing the oral evidence of the petitioner, is set aside and Ld. trial Court is directed to afford one last effective opportunity to the petitioner to produce remaining two witnesses for their examination. The petition is allowed subject to cost of ₹10,000/- to be paid to the respondent.

In case of any grievance, the respondent shall be at liberty to revive the petition by moving an application.

November 29, 2018
Jyoti-IV

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No