

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 203

CR-7609-2016 (O&M)

Date of decision : 20.08.2019

Bhagwanti

..... Petitioner

VERSUS

Karnail Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Rajnish Gupta, Advocate, for the petitioner.

Mr. P. S. Jammu, Advocate, for respondent No. 1.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 21.07.2016, passed by the Civil Judge (Junior Division), Ellenabad (for short, the Trial Court), through which the petitioner's evidence has been ordered to be closed. Also under challenge is the order dated 18.10.2016, passed by the Trial Court, through which an application filed by the petitioner seeking recalling of the aforesaid order dated 21.07.2016 was dismissed.

The facts, in brief, which would be required to be noticed for adjudicating upon the present petition are that respondent No. 1 filed a suit before the Trial Court challenging therein order dated 09.07.1982, passed by respondent No. 3 through which allotment of land measuring 24 kanals detailed and described in the head note of the plaint (for short, the suit property) had been cancelled. Order dated 23.03.1984, passed by respondent No. 3 was also challenged. Sale deeds executed by the petitioner, who was defendant No. 6 in the suit, as also by other respondents/defendants were also challenged. Consequential relief of mandatory injunction to direct the official defendants in the suit to allot the suit property in favour of respondent No. 1 was prayed for.

Further relief of permanent injunction to restrain the defendants in the suit from

further allotting the land in favour of any other person was also sought.

On being put to notice, the petitioner, who was defendant No. 6 in the suit, alongwith other defendants appeared before the Trial Court and contested the suit.

Through order dated 21.07.2016, the petitioner's evidence was ordered to be closed as according to the Trial Court in spite of grant of sufficient opportunities she had failed to lead her entire evidence. The petitioner then filed an application seeking recalling of the aforesaid order passed by the Trial Court which application was dismissed by the Trial Court on the ground that she had already been granted several opportunities to lead her evidence.

Learned counsel for the petitioner submits that on 27.05.2016 the petitioner was granted the first opportunity by the Trial Court to lead her evidence and the suit was adjourned to 08.07.2016 which was the second opportunity. Thereafter on 21.07.2016 which was the next date before the Trail Court the petitioner's evidence was ordered to be closed. He prays that subject to assessment of reasonable costs, the petitioner be granted only one opportunity to lead her entire evidence.

Learned counsel for contesting respondent No. 1 submits that he has express instructions from his client that subject to payment of reasonable costs to be assessed by this Court the petitioner be granted one opportunity to lead her entire evidence. He further submits that as respondent No. 1's suit is pending since the year 2012, a direction be issued to the Trial Court to dispose of his suit in a time bound manner.

In line with the principles of natural justice and not to preclude the petitioner from raising her defence at the threshold of the suit filed

against her as also on account of the afore-referred concession by learned counsel for contesting respondent No. 1, subject to payment of ₹10,000/- as costs, to be paid by the petitioner to respondent No. 1, the impugned orders are set aside and the petitioner is granted one opportunity to lead her entire evidence.

As respondent's No. 1's suit is pending adjudication since the year 2012, the Trial Court is further directed to finally adjudicate upon the same within four months from the date of receipt of a certified copy of this order, of course, after following the procedure prescribed by law.

The Trial Court shall ensure that the costs ordered to be paid by the petitioner to respondent No. 1 are transferred to respondent No. 1's bank account.

The petition is allowed in the above terms.

20.08.2019
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No