

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

CR No.990 of 2019 (O&M)
Date of decision : 13.02.2019

Nirmal Singh

...Petitioner

Versus

Dalvar Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.S. Kainth, Advocate for the petitioner.

Mr. Dixit Garg, Advocate for the respondent.

ANIL KSHETARPAL, J. (ORAL)

Defendant-petitioner is in the revision petition against the order passed by the learned trial Court dismissing the application filed by him for recalling the order dated 16.11.2018 by which the trial Court had closed the evidence of the defendant.

It is undisputed that the case was fixed for defendant's evidence for the first time on 28.05.2018 whereas the order closing the evidence was passed on 16.11.2018. Although, as per Status Report, defendant had been granted eight opportunities, however, it is apparent from the order that on 13.11.2018, the case was adjourned on the request of counsel for the plaintiff for granting him opportunity to cross-examine the witness. Still further, defendant was proceeded against ex parte on 12.10.2018. He filed an application for setting aside ex parte proceedings which was allowed and

thereafter the case was fixed.

Counsel for the petitioner-defendant submits that he wishes to lead evidence to prove that there are five other similar agreements with various other persons executed in favour of the plaintiff. The present suit is for specific performance of the agreement to sell.

In such circumstances, the ends of justice would be met if the defendant-petitioner is granted one more opportunity to lead his entire evidence. This opportunity shall be subject to payment of costs of ₹5,000/- which shall be payable to the plaintiff by way of demand draft. The suit is fixed for 14.02.2019.

The trial Court is requested to fix the date after two weeks and grant opportunity to the defendant to lead his entire evidence.

In view of the above, the impugned order is set aside.

Accordingly, the present revision petition is allowed.

13.02.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No