

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

**Civil Revision No.4677 of 2019
Date of decision: 29.07.2019**

Surinder Singh

.....Petitioner

Versus

Sukhwinder Singh and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: None.

Ritu Bahri, J.

Challenge in this petition is to the order dated 03.07.2019 (Annexure P-6) passed by the Civil Judge (Junior Division), Batala, whereby evidence of petitioner-counter claimant has been closed by order.

Petitioner-counter claimant has availed 24 opportunities to conclude his evidence. The suit has been filed for partition of the house and *Haweli* constructed on Khasra No.16//24/2, 23 and Khasra No.25/1, 26, 24/2, situated at village Ahmadabad, Tehsil Batala, District Gurdaspur, as detailed and described in the plaint and two shows, next to Samrath Workshop, situated on G.T. Road leading Batala to Gurdaspur, situated at village Pundir, Tehsil Batala. A perusal of the order dated 09.02.2018 (Annexure P-1) shows that plaintiff-Sukhwinder Singh had appeared and made a statement that he did not want to proceed with the suit further.

Accordingly, the civil suit was dismissed as withdrawn. However, the

counter-claim was pending for evidence of counter claim and filing reply to the stay application. A statement was made by the counter opponent that he will not alienate the shop, as mentioned in the agreement to sell dated 01.01.2018, till the next date of hearing. On that date, the case was adjourned to 16.02.2018 for filing reply to the stay application as well as for evidence of counter claimant. Vide order dated 25.04.2018, counter claim was permitted to be amended. Thereafter, the case remained pending for service of newly impleaded respondent Nos. 3 and 4. Pleadings were completed on 16.11.2018. After amendment of counter claim, evidence of counter claimant started from 31.11.2018.

In the given circumstances of the case, to impart complete justice to the parties, it would be appropriate, if adequate opportunity is provided to the petitioner-counter claimant to lead his evidence.

Accordingly, the impugned order dated 03.07.2019 (Annexure P-6) is set aside and trial Court is directed to provide one effective opportunity to counter claimant/petitioner to conclude his evidence, subject to costs of Rs.5000/- to be deposited with the District Legal Services Authority, Gurdaspur.

Allowed accordingly.

29.07.2019
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No