

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

CR No.452 of 2017

Date of decision: 10th February, 2020

Dharmender

... Petitioner

Versus

Ramwati

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Atul Yadav, Advocate for the petitioner.

Mr. Ashish Yadav, Advocate for the respondent.

FATEH DEEP SINGH, J.

The present petitioner Dharmender (plaintiff before the trial Court) filed against the present respondent Smt. Ramwati (defendant) a suit for possession by way of specific performance with consequential relief of permanent injunction and during the course of the same, an application was moved by the petitioner for leading additional evidence of handwriting expert which stood declined vide impugned orders dated 13.12.2010 by the Court of learned Civil Judge (Jr. Divn.), Pataudi. The same has been assailed before this Court in this revision petition.

After hearing Mr. Atul Yadav, Advocate for the petitioner; Mr. Ashish Yadav, Advocate for the respondent and on perusal of the records.

Admittedly, the suit in question was preferred by the plaintiff petitioner Dharmender on 24.12.2014 in which relief of possession by way of specific performance of agreement dated 15.10.2013 was the contentious issue between the parties. The defendant respondent in her written statement denied the execution of the agreement to sell. On the basis of these pleadings, issues were framed between the parties on 01.09.2015. The plaintiff's evidence and so of defendant was closed and the matter was listed for rebuttal evidence, if any, and final arguments for 15.11.2016 when the plaintiff moved an application for leading additional evidence and which was dismissed and the prayer declined.

During the course of hearing arguments of the two sides, to the very specific query of the Court, learned counsel for the petitioner fairly concedes that in her written statement the defendant had taken specific stand denying the very factum of the agreement in question. Therefore, the plaintiff was fully aware of the stand of the defendant and the evidence he was supposed to lead to undo the effects of the stand of the defendant side. Even thereafter, the plaintiff never bothered to lead any evidence and closed his evidence and so the defendant. It is thereafter, at the fag end of trial of the suit, when the case was listed for rebuttal and arguments an application has come about. Thus, by all means both sides have led their respective evidence and the defences were very

much clear and evident to the opposite party. What prevented the plaintiff (now petitioner) from leading such an evidence during his opportunity to lead evidence, could not be satisfactorily brought forth by learned counsel for the petitioner. The plaintiff was fully aware that the defendant had denied execution of the agreement and therefore, ought to have examined the evidence, if so felt necessary, but he did not bother to do so nor when the evidence of the defendant was completed.

The very purpose of deletion of the provisions of Order XVIII Rule 17 CPC was with a view to ensure that no time gap is there between completion of evidence and commencement and conclusion of the arguments, and thus, prevent undue prolonging of the proceedings as the civil suits have attained this notoriety of unending litigation. What fresh reasons have come forth for leading such evidence so sough to be adduced by the applicant, could not be convincingly put forth on behalf of the petitioner.

Learned counsel for the respondent Mr. Aashish Yadav, Advocate has drawn attention of the Court on the fact that the plaintiff had availed off more than ten effective opportunities to lead evidence and has done so and therefore, at this belated stage having been fully aware of the stand of the other side, such an attempt is merely to prolong the proceedings for a motivated cause. The Court below has rightly held that

the application was nothing but to cause delay in the present case. Nothing could be brought to the notice of this Court which could be of utmost legal necessity to allow the present revision petition. There appears to be no illegality or perversity in the findings of the Court below. Thus, the present revision petition being wholly meritless stands dismissed.

(FATEH DEEP SINGH)
JUDGE

February 10, 2020
rps

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