

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-8226-2018

Date of Decision: October 07, 2021

SUKHJINDER SINGH

..... PETITIONER(s)

Versus

HARJINDER SINGH AND OTHERS

..... RESPONDENT(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Surinder Garg, Advocate
for the petitioner.

Mr. Amarbir Singh Pahwa, Advocate
for respondents no.1 and 2.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of pandemic, COVID-19.

Prayer in this revision petition is for setting aside order dated 01.11.2018 (Annexure P4), passed by the learned Additional Civil Judge (Sr. Division), Baghapurana, whereby evidence of petitioner has been closed by order.

Petitioner along with one Kuljinder Singh has filed a suit for declaration to the effect that they are owners in possession of the land left behind by their father as per share detailed in the plaint. Issues in the suit were framed on 13.10.2017 and the matter adjourned to 16.11.2017 for evidence of the plaintiff. Details of the proceedings before the trial Court thereafter till 01.11.2018 are stated in detail in the revision petition.

Learned counsel for the petitioner vehemently argues that delay has not occurred entirely due to fault of the plaintiff and it is only cross-examination of the present petitioner (plaintiff), which is left to be concluded. Reference has been made to a number of interim orders, passed by learned trial Court from 13.10.2017 onwards, to buttress his case. It is submitted that an application for conducting cross-examination through video conferencing was also filed but the same was dismissed. Learned counsel for the petitioner submits that irreparable loss and manifest justice shall be caused to the petitioner, in case cross-examination of petitioner is not permitted.

Learned counsel for respondents no.1 and 2 while opposing the petition, submits that petitioner is an N.R.I. and feels that trial should proceed as per his whims and fancies. Learned counsel further submits that no ground whatsoever is made out for setting aside order dated 01.11.2018.

I have heard learned counsel for the parties and have gone through the file with their assistance.

A summary of the proceedings/orders passed by the learned trial Court from 13.10.2017 onwards is reproduced in para 2(xv) of the petition. A perusal thereof reveals that it is indeed not the petitioner/plaintiff alone, who is to blame for delay in conclusion of evidence. It is brought to my notice that presently due to outbreak of pandemic COVID-19, much progress has not been made in the trial. Defendants are stated to have tendered their affidavits in examination-in-chief. Their cross-examination is yet to be carried out. It cannot be denied that in case cross-examination of petitioner is not carried out, grave prejudice shall be caused to the petitioner.

Keeping in view the facts and circumstances of the case, order dated 01.11.2018 (Annexure P4) is set aside to the extent that evidence of

plaintiff is closed. One opportunity is afforded for cross-examination of the petitioner-plaintiff. In case, petitioner presents himself before the learned trial Court on 21.10.2021 i.e. the date on which matter is stated to be listed before the learned trial Court, his cross-examination be carried out on the said date, subject to deposit of Rs.25,000/- as cost, to be paid to respondents no.1 and 2.

This revision petition is accordingly disposed of.

October 07, 2021
Sunil

(LISA GILL)
JUDGE

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