

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-1402-2021 (O&M)

Date of Decision: July 28, 2021

NARINDER SINGH

..... PETITIONER(s)

Versus

ASHWANI GUPTA AND OTHERS

..... RESPONDENT(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Amit Arora, Advocate
for the petitioner.

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 03.03.2020 (Annexure P4), passed by the learned Additional Civil Judge (Sr. Division), Tarn Taran, whereby evidence of the petitioner/plaintiff has been closed by Court order.

It is submitted that petitioner filed the suit for permanent injunction for restraining defendants/respondents no.1 to 3 from illegally and forcibly raising any construction on the joint land measuring 14 Kanals 10 Marlas as described in the plaint, till partition of the joint land except in due course of law.

Issues in this case, it is stated, were framed on 19.08.2019 and the matter fixed for evidence of the plaintiff on 02.09.2019. Thereafter, on 19.11.2019 plaintiff examined PW1 - Ram Gopal Joshi, whose affidavit was tendered in evidence. Cross-examination of the said witness was deferred at

request of defendants' counsel for 11.12.2019. At request of the petitioner, matter was adjourned for 11.12.2019 to 07.01.2020 on which date petitioner was examined as PW2. His affidavit was tendered and the matter adjourned at request of counsel for the defendants for cross-examination of plaintiff/petitioner to 21.01.2020. Matter was adjourned by the learned trial Court on 21.01.2020 to 05.02.2020 and then to 14.02.2020 as no witness was present. As Presiding Officer was not holding Court on 14.02.2020, matter was adjourned to 03.03.2020, on which date cross-examination of PW1 - Ram Gopal was carried out. Petitioner, it is stated was very much present in the Court premises on that day, however, his cross-examination could not be conducted and the impugned order was passed.

Learned counsel for the petitioner submits that evidence of the defendants has yet to start and the matter is now listed before the learned trial Court on 11.08.2021. Irreparable loss and injustice shall be caused to the petitioner in case his cross-examination is not conducted and purpose of his suit itself would be negated. Petitioner does not seek to examine any other witness in this matter and only prays that his cross-examination be conducted to obviate grave injustice to him. Learned counsel further submits that petitioner is not trying to delay the matter unnecessarily in any way and that he undertakes to be present before the learned trial Court on 11.08.2021 or any other date as may be fixed for cross-examination, if so permitted and that petitioner would not seek any adjournment whatsoever in this regard.

I have heard learned counsel for the petitioner and have gone through the file with his able assistance.

In order to obviate any further delay and unnecessary expenditure to the respondents, this order is being passed without issuance of notice to the respondents.

It is undeniable that the petitioner would be seriously prejudiced in case his cross examination is not permitted.

Keeping in view the facts and circumstances, it is directed that if the petitioner remains present before the learned trial Court on 11.08.2021, his cross-examination be carried out on the said date or another occasion, which may be suitable and convenient to learned trial Court, subject to the petitioner depositing a sum of Rs.15,000/-, to be paid to the respondents. No further opportunity would be granted to the petitioner.

Needless to say, liberty is afforded to the respondents to move an appropriate application, in case, any of incorrect facts, which may have been projected before this Court.

This revision petition is accordingly disposed of.

July 28, 2021

Sunil

**(LISA GILL)
JUDGE**

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