

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-7364 of 2017 (O&M)
Date of decision: 07.09.2022

Maharaja Land Developers Private Limited

..Petitioner

Versus

Chhaja Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vijay Lath, Advocate, for the petitioner.

ANIL KSHETARPAL, J(Oral)

Despite notice, the respondents have not entered appearance.

The challenge is to the correctness of the orders passed by the trial court on 04.09.2017 and 14.09.2017.

The suit for grant of decree for specific performance of the agreement to sell, filed by the petitioner is pending in the trial court.

On 04.09.2017, the evidence of the plaintiff was closed. An application for recall the aforesaid order has been dismissed, on 14.09.2017. The petitioner wishes to examine one of the marginal witnesses of the agreement to sell and to produce and prove the resolution passed by the Board of Directors of the plaintiff-company in favour of Sh. Rajbir Singh authorizing him to file a suit. The trial court has dismissed the application on the ground that the plaintiff while filing the list of witnesses did not include their name in the list.

It is well settled that the rules of procedure are made to advance the cause of justice. Such rules of procedures are required to be followed to ultimately help the court in delivering the substantive justice.

On the other hand, the rules of procedure cannot be used in a manner which causes hindrance in the imparting of justice.

Undoubtedly, the plaintiff did not include the witnesses sought to be examined in the list supplied, however, the court has enough enabling powers to permit the examination of the relevant evidence for a fair trial. The suit is at the trial stage. The application was filed for recall immediately as the same was decided within a period of 10 days.

Keeping in view the aforesaid, facts, the trial court is requested to grant an opportunity to the petitioner to examine one of the marginal witnesses of the agreement to sell as well to produce and prove the resolution of the petitioner-company.

Disposed of accordingly.

All the pending miscellaneous applications, if any, are also disposed of.

September 07, 2022

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(ANIL KSHETARPAL)
JUDGE

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