

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CR-7723 of 2017 (O&M)  
Date of decision:28.03.2022

Raj Rani

...Petitioner

Versus

Major Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present:** Mr. Aakash Singla, Advocate, for  
Mr. Jatinder Singla, Advocate,  
for the petitioner.

Mr. A.S.Salar, Advocate  
for respondent no.1.

**ANIL KSHETARPAL, J (Oral)**

The learned trial Court while dismissing an application for permission to set aside an ex-parte proceedings against defendant no.1(petitioner) has taken a very conservative view of the matter. The plaintiff (respondent) has filed a suit for specific performance of the agreement to sell dated 16.07.2013. The petitioner claims to be an illiterate widow. Her application for setting an ex-parte proceedings has been dismissed on the ground that she filed an application beyond the prescribed time.

On 08.11.2017, while issuing notice of motion, the following order was passed:-

*“Contends that plaintiff himself had faulted in not producing evidence on 17.09.2014, 18.11.2016 and 24.01.2017 when the last opportunity was granted to the plaintiff to lead evidence on 10.03.2017 subject to payment of cost. Even the cost was not paid and the case was further adjourned to 12.04.2017 with an additional cost of Rs.300/-.*

By referring to the aforesaid, learned counsel impresses that one opportunity needs to be given to defendant no.1 to file written statement and to cross-examine the plaintiff witnesses.

Notice of motion for 22.01.2018.

In the meanwhile, trial Court shall not pass the final order.”

Pursuant thereto, the petitioner has been permitted to join the proceedings and she has already cross-examined the witnesses produced by a co-defendant.

Keeping in view the facts of the case, this Court is of the considered view that the petitioner deserves to be granted an opportunity to defend the suit.

Hence, the petitioner be granted an opportunity to file written statement, within a period of 15 days, from today with a copy in advance to the learned counsel representing the plaintiff. She shall be permitted to cross-examine the witness produced by the plaintiff and thereafter, permitted to lead evidence. The petitioner shall be granted only two opportunities to lead her evidence.

Disposed of accordingly.

Since, the suit for specific performance of the agreement to sell is pending since 10.08.2015, therefore, the learned trial Court is requested to conclude the trial within a period of 6 months, from today.

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

**March 28, 2022**  
**nt**

**(ANIL KSHETARPAL)**  
**JUDGE**

**Whether speaking/reasoned : Yes/No**

**Whether reportable : Yes/No**