

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-8365 of 2017 (O&M)
Date of decision: 22.09.2022

Pala Singh Tanck

..Petitioner

Versus

Randeep and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: **Mr. Chetan Gupta, Advocate, for
Dr. Surya Parkash, Advocate,
for the petitioner.**

**Mr. Munish Kumar Garg, Advocate
and Mr. Vikas Mehra, Advocate
for respondent no.1 to 6.**

**Mr. Anil Rathee, Advocate
for respondent no. 7 to 11.**

ANIL KSHETARPAL, J(Oral)

The petitioner is the plaintiff in a suit for specific performance of the agreement to sell. His application for permission to lead additional evidence in order to examine the concerned Notary Public, who allegedly notarized the agreement to sell, has been dismissed.

The petitioner claims that his counsel remained under a wrong impression that Sh. C.B.Arya, Notary Public of Delhi has already been examined in evidence. The trial court has dismissed the application on the ground that the fact of non-examination of the concerned Notary Public was well within the knowledge of the plaintiff.

On a careful reading of the application filed for permission to lead additional evidence, it is evident that the petitioner has specifically pleaded that his counsel remained under a mistaken impression that the aforesaid witness has already been examined. The plaintiff has not asserted

that this fact was not in his knowledge. Thus, it was incorrect on the part of the Presiding Judge to dismiss the application on a ground which was not disputed in the application.

It is well known that the rules of procedure are handmaid of justice. The plaintiff's suit for specific performance of the agreement to sell is pending. He is required to prove the agreement to sell in accordance with law which is stated to have been attested by a Notary Public of Delhi. In such circumstances, the view taken by the Court is myopic/narrow.

The petitioner undertakes to secure the presence of the witness at his own end. Keeping in view the aforesaid facts, the impugned order dated 15.11.2017 is set aside. The revision petition is allowed.

The trial Court is requested to provide, at the most two opportunities to the plaintiff to lead evidence, subject to payment of cost of Rs.2000 which shall be deposited by him within a period of 3 months, from today, with the 'Poor Patients Welfare Fund' of the Post-graduate Institute of Medical Education and Research (PGIMER), Chandigarh, personally or through its website "www.pgimer.edu.in" and produce the receipt, duly verified by his counsel, before the Registrar General of this Court.

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

September 22, 2022

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**(ANIL KSHETARPAL)
JUDGE**

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