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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3545-2022 (O&M)

Date of Decision: 16.11.2022

Kiran Bala and another

.. Petitioners

Vs.

Sukhjit Kaur Walia and others

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Sandeep Bansal, Advocate for the petitioners.

Mr. Kanwal Goyal, Advocate
for respondent Nos.2 to 4.

Mr. Jasraj Singh, Advocate
for respondent No.6.

...

Manoj Bajaj, J. (Oral)

Petitioners (defendants No.1 and 2) are aggrieved against the orders dated 08.07.2022 (Annexure P-1) and 10.08.2022 (Annexure P-4), passed by the Civil Judge (Sr. Divn.), Hoshiarpur, whereas firstly their evidence was closed in a suit for separate possession by partition of house in question, and subsequently their application for recalling the order dated 08.07.2022 was also dismissed.

Learned counsel for the petitioners submits that the plaintiffs (respondent Nos.1 to 4) have filed a civil suit for separate possession against defendant Nos.1 to 4, wherein the plaintiffs closed their evidence on 11.12.2019, and thereafter, the case was adjourned to 03.01.2020 for the evidence of the defendants. He further submits that DW1 to DW4 had appeared as witnesses of defendant Nos.3 and 4, who were cross-examined by the counsel for plaintiffs. Learned counsel states that defendants No.1 and 2 did not lead their evidence and vide order dated 06.08.2021, last

opportunity was granted to them to conclude their evidence, but they failed to do so. According to learned counsel, even thereafter, seven opportunities were granted to them and their evidence was closed vide order dated 08.07.2022, but thereafter, defendants No.1 and 2 filed an application for recalling of order dated 08.07.2022 and the same has also been dismissed. He submits that the petitioners (defendants No.1 and 2) wish to lead their evidence and in case one opportunity is allowed to them, no prejudice would be caused to the other side.

Mr. Kanwal Goel, learned counsel for the plaintiffs submits that the evidence of the defendants has rightly been closed by the trial Court, as they did not lead any evidence, despite various opportunities. In all fairness, Mr. Geol, learned counsel states that if one opportunity is being granted to the petitioners, he does not object to it, but prays that the plaintiffs also deserve to be compensated adequately.

Upon hearing the learned counsel and considering the above stand of the learned counsel for the parties, this Court deems it appropriate to allow one effective opportunity to defendants No.1 and 2 to conclude their entire evidence, at their own responsibility, subject to payment of costs of Rs.10,000/- to the plaintiffs.

Resultantly, the petition is allowed, the impugned orders dated 08.07.2022 (Annexure P-1) and 10.08.2022 (Annexure P-4) are set aside and defendants No.1 and 2 are granted last opportunity to conclude their evidence.

16.11.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes No
Yes No