

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.4086 of 2022

Date of Decision: September 22, 2022

Suresh Chander

...Petitioner

Versus

Paramjit Singh since deceased through his L.Rs.

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr.Abdul Aziz, Advocate,
for the petitioner.

MANOJ BAJAJ, J.

This revision petition has been filed by the petitioner under Article 227 Constitution of India for setting-aside the order dated 09.08.2022 (Annexure P-4), passed by the Civil Judge (Junior Division), Ambala, whereby his application for filing replication to the written statement, has been declined.

The facts, in brief, are that petitioner-plaintiff filed a suit for specific performance of the agreement to sell dated 16.12.1975 executed by the defendant and prayed for direction to defendant to execute the sale deed in respect of House No.651MIG, Haryana Housing Board Colony, near ITI, Ambala City on payment of balance sale consideration, and also prayed for a consequential relief of permanent injunction restraining the defendant from interfering, alienating, selling and creating any sort of charge over the suit property.

Learned counsel for the petitioner has argued that due to inadvertence, learned counsel representing the petitioner before the court

below could not file replication to the written statement and the petitioner came to know about this fact only after obtaining certified copies of the orders. He submits that the trial court has erroneously dismissed the application without considering the pleadings and the petitioner cannot be made to suffer on account of the fault of his counsel. He prays that the impugned order be set-aside and plaintiff be allowed to file replication to the written statement.

After hearing the learned counsel for the petitioner and considering the above background, this court finds that counter claim along with written statement was filed on 24.05.2016 and since no replication was filed at that point of time, issues were framed and plaintiff's evidence commenced. Since the plaintiff failed to conclude his entire evidence, therefore, vide order dated 14.07.2017, it was ordered to be closed. Thereafter, in compliance with the order passed by this court, one more opportunity was granted to the petitioner to lead his evidence, and thereafter defendant also concluded the evidence, and the case was fixed for rebuttal evidence. It is at this stage, the plaintiff-petitioner chose to file the application on 21.11.2019 seeking permission to file replication after a delay of three and half years from filing of written statement/counter claim.

A perusal of the impugned order reveals that the trial court has carefully considered the facts and circumstances of this case and proceeded to decline the prayer of the plaintiff by relying upon the decision of this court. The impugned order does not suffer from any illegality or impropriety, therefore, no case is made out for exercise of revisional jurisdiction.

Dismissed.

September 22, 2022
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No