

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-5776 of 2022 (O&M)
Date of decision: 07.12.2022

Baldev Raj and another

..Petitioners

Versus

Sangeeta Rani

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Manuj Nagrath, Advocate and
Mr. Ankur Pandey, Advocate,
for the petitioners.

ANIL KSHETARPAL, J(Oral)

1. The petitioners herein are the defendants in a pending suit for grant of decree of possession. The prayer clause of the plaint reads as under:-

“It is, therefore, most respectfully prayed that a decree for possession of one residential house shown as red in the site plan attached to the plaint bearing no.1954, Street No.2, New Aman Nagar, Salem tabri, Ludhiana and bounded as under:-

North : Vacant Plot

South : Vasudev Gupta

*East: House of Pardeep Kumar and other
neighbour*

West: Street

By directing the defendants to vacate the above said residential house and to handover its actual vacant possession to the plaintiff, for declaration to the effect that the plaintiff is the exclusive owner of the above said residential house and that defendant shave no right, title or interest of any type in the property in dispute, for permanent injunction restraining the defendants shall not in any manner sell or transfer the above said house to any person and that of defendants shall not induct any stranger into the property in dispute and shall be cause any damage to the building in dispute, shall not demolish or re-construct any part of the property in dispute, for recovery of Rs.77,000/- as amount of compensation/use and occupation/mesne profits, may kindly be passed in

favour of the plaintiff and against the defendants with costs.

Any other additional or alternative relief to which the plaintiff may found entitled to also passed in favour of the plaintiff and against the defendants.”

2. It appears that the suit was filed in the year 2011. It is the case of the petitioners that the plaintiff was granted various opportunities spanning over a period of 5 years from 02.03.2017 to 03.10.2022, however, the defendants have been given opportunities to lead evidence only between 10.11.2022 to 22.11.2022.

3. In substance, the petitioners made a grievance that her opportunity to lead sufficient evidence has been closed by the Court without granting her proper and sufficient opportunities. Various orders passed by the Court on a day to day basis have been produced on the file. On 03.10.2022, the case was adjourned to 10.11. 2022 for the first time for the defendants' evidence. The court closed her evidence within a period of one month and 11 days.

4. Undoubtedly, the efforts are required to be made for expeditious disposal of the suit/litigation, however, the same cannot be done at the cost of one party only. Once the plaintiff has been granted the period of 5 years for completing the evidence, the Presiding Officer of the court should have been more considerate towards the defendants as well. In the civil cases, the evidence is required to be collected by the parties in dispute. Either the Court should have cautioned the defendants in advance to come prepared for leading their evidence the moment plaintiff closes his evidence and the court intends to decide the suit. In absence of such caution, it was not appropriate for the Court to rush through the matter without granting the defendants sufficient opportunity to lead evidence.

5. The learned counsel representing the petitioner submits that he required only two months' time to conclude his entire evidence.

6. Keeping in views the aforesaid facts, the order dated 23.11.2022, is set aside. The petitioners shall have liberty to lead their evidence within the next two months, from today, positively.

7. Since this order has been passed without issuing notice to the plaintiff, she shall have liberty to file an application for modification or recall, if aggrieved by the order.

8. The petition stands disposed of.

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

December 07, 2022

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**(ANIL KSHETARPAL)
JUDGE**

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