

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

104

**CRR-115-2023 (O&M)
Date of decision: 18.01.2023**

Surender Singh Deswal @ Col. S.S. Deswal and othersPetitioners

Versus

Virender Gandhi and anotherRespondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Puneet Bali, Sr. Advocate with
Mr. Surjeet Bhadu, Advocate and
Ms. Bhawna Chaudhary, Advocate for the petitioners.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-2277-2023

For the reasons mentioned in the application, the same is allowed and the documents mentioned therein are taken on record as Annexure P-5 to P-10 subject to all just exceptions.

CRR-115-2023

The petitioners are seeking setting aside of order dated 19.12.2022 passed by the learned Trial Court in CRA No.281 of 2018 vide which an application moved under Section 391 of the Cr.P.C. by the petitioners for leading additional evidence during pendency of the appeal was dismissed.

Learned Senior Counsel appearing for the petitioners inter alia contends that the learned Appellate Court while passing the impugned order misinterpreted the terms and conditions detailed in the MOU dated 30.11.2013 (Annexure P-5). Learned Senior Counsel submits that the application dated 19.10.2020 under Order 1 Rule 10 (Annexure P-3) moved before the RERA which the petitioners wanted to adduce by way of additional evidence would surely help in the just

and effective adjudication of the matter in dispute between the parties and would also substantiate the defence of the petitioners.

Notice of motion only to respondent No.1.

At this stage, Mr. Mandeep Singh Khillan, Advocate has put in an appearance and filed his power of attorney on behalf of respondent No.1 which is taken on record subject to all just exceptions.

Learned counsel for respondent No.1 at the outset has submitted that though material concealments have been made by the petitioners, however, he would not oppose the prayer made by the learned Senior Counsel for the petitioners and would also have no objection if the application (Annexure P-3) is allowed to be tendered by way of additional evidence before the Appellate Court. However, he prays that since the appeal was instituted way back in the year 2018 and has been pending for the last more than 04 years, learned Appellate Court be directed to finally decide the appeal expeditiously within a time period of one month.

Learned Senior Counsel for the petitioners submits that he has no objection if the aforesaid directions are given to the learned Appellate Court to decide the appeal expeditiously within a period of one month. He further undertakes that the petitioners would fully cooperate with the learned Appellate Court in the expeditious disposal of the appeal in question and would not seek any unnecessary adjournments.

I have heard learned counsel and perused the relevant material on record.

In view of the no objection given by the learned counsel

for respondent No.1, the impugned order 19.12.2022 is set aside and the application under Section 391 of the Cr.P.C. for leading additional evidence (Annexure P-4) moved by the petitioners before the learned Appellate Court is allowed. However, as the appeal in question i.e. CRA No.281 of 2018 has been pending since the year 2018, coupled with the fact that the learned counsel for the parties are ad idem that the said appeal may be decided expeditiously, the learned Appellate Court is directed to decide the aforesaid appeal expeditiously in accordance with law, within a period of one month from the date of receipt of certified copy of this order.

Disposed of in the above terms.

18.01.2023

(MANJARI NEHRU KAUL)
JUDGE

Vinay

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