

In the High Court of Punjab and Haryana at Chandigarh

201

CR-2117-2016 (O & M)

Date of Decision: January 24, 2023

AVTAR SINGH

.....PETITIONER

VERSUS

KAMINI CHOPRA & ORS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr.Sunil Garg, Advocate for the petitioner.

Mr. Parvez Chugh, Advocate for respondents No.1 and 2.

ANUPINDER SINGH GREWAL, J (ORAL)

The petitioner has challenged the order dated 11.03.2016 whereby his application for leading additional evidence has been declined.

Learned counsel for the petitioner submits that the father of the applicant-Avtar Singh, who had preferred the suit for possession and permanent injunction, had expired and thereafter the petitioner is pursuing the case. He was under the impression that certified copies of the sale deeds dated 25.06.1998 and 02.02.1967 were already on the judicial record but he later on learnt that the same are not on the judicial file and, therefore, after obtaining certified copies from the office of Sub-Registrar, he has sought to place the same on record by way of additional evidence.

Learned counsel for the respondents submits that the petitioner had availed 30 opportunities to complete his evidence and after his evidence had been closed, he had filed the application for additional evidence which was without merit and has been rightly dismissed.

Heard.

This petition had been preferred in the year 2016 and the Coordinate Bench of this Court by order dated 21.03.2016 had stayed the passing of the final

order. The interim order has continued till date. The petitioner is seeking only one opportunity to prove the certified copies of the sale deeds which had been registered in the office of Sub Registrar. The petitioner has stepped into the shoes of his father Avtar Singh, who had filed the suit. A perusal of the zimini orders indicates that the trial Court in the impugned order has recorded that 30 opportunities were given to the plaintiff to prove his evidence.

Learned counsel for the petitioner submits that the respondent himself had availed 14 opportunities to cross-examine the witnesses and, therefore, it is incorrectly recorded in the impugned order that the petitioner has availed 30 opportunities to prove his evidence. He has furnished a copies of the zimini orders, which are taken on record.

A perusal of the zimini orders indicates that 14 opportunities had been availed by defendant-respondent to cross examine the witnesses produced by the petitioner. Therefore, the delay cannot be solely attributed to the petitioner himself. It would be in the interest of justice, equity and fair play if the petitioner is accorded one opportunity to prove the aforementioned sale deeds.

Consequently, the petition is allowed and the impugned order (Annexure P-1) is set aside. The petitioner would be afforded one opportunity to prove the sale deeds.

Needless to observe that the respondent would be granted adequate opportunity to rebut the evidence of the petitioner.

(ANUPINDER SINGH GREWAL)
JUDGE

January 24, 2023

A.Kaundal

Whether speaking/ reasoned	:	Yes/No
Whether Reportable	:	Yes/No