

2023:PHHC:162291

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-4860-2018(O&M)

Date of Decision: December 18, 2023

Sri Prem Properties Private Ltd.

...Petitioner

Versus

Savitri and others

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.R.Kartikeya, Advocate
for the petitioner.

None for respondents No.1 to 3.

Mr.Gurinder Pal Singh, Advocate
for respondent No.4.

Mr.Vikram Garg and Mr.Jaskirat Singh, Advocates for
Dr.Surya Parkash, Advocate
for respondent No.5.

ARCHANA PURI, J.

Challenge in the present revision petition is to the order dated 17.07.2018 passed by learned Court below, whereby, an application filed by the petitioner (who is plaintiff before the Court below) for summoning of the witnesses had been dismissed.,

Notice of motion was issued. However, none had made appearance on behalf of respondents No.1 to 3 and they are proceeded against ex-parte. Respondents No.4 and 5 had made appearance through

their respective counsel.

Learned counsel for the parties heard.

It is evident from the paperbook that initially, the petitioner had filed a suit for specific performance of an agreement to sell dated 20.03.2003. In pursuance of the notice issued, the contesting respondents had made appearance. Also, it is evident that on 03.02.2018, in pursuance of the application having been filed, the issues were framed and the case was further fixed for recording of the evidence of the petitioner-plaintiff for 15.03.2018. The list of witnesses was ordered to be filed within a period three days. After availing 3-4 opportunities, the list of witnesses was filed and an application was filed for issuance of the summons, but however, the same was dismissed vide impugned order.

At this stage, learned counsel for the respondents No.4 and 5 have submitted that they have no objection, if the application for summoning of the witnesses is allowed. Otherwise also, it is pertinent to mention that no doubt, there is delay, on the part of the petitioner-plaintiff to file the application for summoning of the witnesses, but however, at the same time, it is essential to note that witnesses, which are intended to be summoned, are the essential witnesses, to decide the controversy between the parties. The said documents, which are intended to be examined, could only be proved by way of production of the record, through the witnesses, who are intended to be summoned. Considering the same, in the interest of justice, the impugned order dated 17.07.2018 passed by learned Court below, is hereby set aside.

The parties are requested to make appearance before learned Court below on 12.01.2024, the date already fixed and on that day, an endeavour shall be made by the Court below to examine the plaintiff on the same date, to its convenience and learned Court below shall also allow the application for summoning of the witnesses and post the case further, for summoning of the witnesses, as detailed in the application, copy whereof is Annexure P-5.

However, said application is allowed, subject to payment of Rs.20,000/- as costs, to be deposited with Poor Patients Fund, PGI, Chandigarh, within a period of ten days from today onwards.

In view of aforesaid observations, the present revision petition stands allowed.

December 18, 2023
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No