

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

CR 2180/2023

Date of decision: 13.04.2023

Randeep Singh @ Randeep Singh Sidhu

.....Petitioner

Vs.

Harpreet Singh Ghuman

.....Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Prashant Bansal, Advocate for the petitioner.

Nidhi Gupta,J.

1. Present revision petition has been filed by the plaintiff seeking setting aside of order dated 12.01.2023 (Annexure P-5) passed by Id. Civil Judge, Jr. Division-cum-Jr. Magistrate 1st Class, Rajpura, whereby the evidence of the petitioner/plaintiff had been closed by order.

2. Brief facts of the case are that the petitioner had instituted a suit for possession by way of specific performance of Agreement to Sell dated 23.12.2014 titled as 'Randeep Singh Vs. Harpreet Singh Ghuman' bearing CS/399/2018 (Annexure P-1). Upon notice, the sole respondent/defendant appeared and filed written statement Annexure P-2. Vide order dated 26.02.2019, learned trial Court had framed issues in the matter and the case was fixed for plaintiff evidence for 20.03.2019.

3. It is submitted by learned counsel for the petitioner that the learned trial Court was in error in closing the evidence of the petitioner in his absence as the petitioner had only sought adjournment of the case, and

had even filed an application for adjournment to ensure that no inconvenience is caused to the learned Trial Court. It is submitted by learned counsel that the petitioner had valid reasons for seeking adjournment of the matter as it has been consistently submitted by the petitioner that the respondent is a very influential person and has relations with criminal persons and police officials, and the petitioner has serious apprehension that he would be kidnapped and involved in false case if he appears. It is submitted that it was for this reason that the petitioner had sought adjournment of the matter.

4. No other argument is raised by the counsel for the petitioner.
5. I have heard learned counsel.
6. The impugned order records the following findings:-

“File taken up after lunch. Case called several times. The plaintiff has failed to appear before the court despite there being specific directions for the same vide order dated 02.01.2023. No other PW is also present. The Ld. counsel for the defendant as well as the defendant appeared in the court at 11:00 AM sharp and even after lunch, but neither plaintiff nor any other PW appeared despite repeated calls. Rather an application for adjournment of case has been filed by Ld. counsel for the plaintiff. In view of the order dated 02.01.2023, the same cannot be allowed. It is already 04:30 P.M. Presence of plaintiff is awaited sufficiently. Hence, since the plaintiff has failed to conclude evidence despite last and final opportunity, his evidence is closed by order. Now to come up on 14.02.2023 for defendant evidence.”

Said order dated 02.01.2023 has been reproduced in the body of the present revision petition, which reads as follows:

“Randeep Singh Vs. Harpreet Singh

Present: Sh. Aman Bansal advocate counsel for plaintiff.

Sh. Acchar Kumar advocate counsel for defendants.

Order:

- 1. This order of mine shall dispose of an application for adjournment of the suit filed by Ld. counsel for the plaintiff.*
- 2. It has been averred in the application that the present suit is for possession by way of specific performance of agreement to sell of a shop bearing no. 2 situated at Guru Nanak Colony Rajpura. The plaintiff belongs to village Lohar Majra, Tehsil Dhuri, District Sangrur. The respondent is very influential person and has very good approach and relations with criminal persons and police. Previously also the plaintiff was kidnapped and kept in illegal custody about 5 years back. Now, the respondent and his partymen are threatening to abduct the plaintiff/petitioner from the court and to cause bodily injury to the plaintiff. The plaintiff has apprehension that he would be kidnapped and involved in a false case. The plaintiff wants to get the present case transferred from Rajpura court to Sangrur court i.e. within the jurisdiction of the residential area of plaintiff. Hence, it has been prayed that the application be allowed and the case be adjourned.*
- 3. In reply to the above said application, it has been submitted that the present application is not maintainable and liable to be dismissed with costs. The present application is false and frivolous. False and concocted story has been made by the plaintiff only to get adjournment and delay the proceedings of the suit. On merits, all the averments made in the application by the plaintiff have been denied. Earlier, plaintiff himself ran away from Patiala and played fraud with the public at large. A complaint was filed by his father and even enquiry was also conducted and he himself appeared before the police and got his statement recorded and he admitted that he himself went out of Patiala. Hence, it has been prayed that the application be dismissed.*
- 4. Heard. By way of the present application, the plaintiff wanted to seek an adjournment on the previous date i.e. 19.12.2022 and the purpose of the same has already been achieved by the plaintiff, since the matter was adjourned to 02.01.2023. Since, the purpose for which the plaintiff has filed an application on the previous date has already been achieved by him, therefore the present application is disposed of. Further, in case the plaintiff has any threat perception from the defendant as alleged, the plaintiff has other remedies available with him for this purpose and no further adjournment in this case shall be granted on this pretext. Further, last and final opportunity is granted to the plaintiff to conclude*

the entire plaintiff evidence on the next date of hearing i.e. 12.01.2023, failing which the evidence of the plaintiff shall be closed by order. The plaintiff is directed to appear before the court at 11:00 AM sharp on the next date of hearing i.e. 12.01.2023 and last and final opportunity is granted to cross-examine the plaintiff, failing which the opportunity given shall be treated as NIL.

Sd/-

Date of order

02.01.2023

Sweety Stenographer-III

Savreen Sandhu, PCS

CJJD-CUM-JMIC

Rajpura/UID No.PB0645

Directly Dictated on Computer”

7. Perusal of the above order shows that on the request of the petitioner, he was granted adjournment on 19.12.2022 and 2.1.2023, on the ground that he had threat perception from the respondent. However, it has also been recorded that petitioner has taken no remedial steps thereafter, despite his alleged threat perception. Needless to say, the suit cannot be adjourned interminably for this purpose, especially in view of the fact that the apprehensions of the petitioner remain unsubstantiated.

8. Record further reveals that the petitioner had also sought transfer of the instant Civil Suit by way of transfer application being TA No.188 of 2023 filed before this Court which was dismissed by this Court vide order dated 14.02.2023 as despite the threat apprehension expressed by the petitioner, no FIR or police complaint was stated to have been filed by the petitioner and even no criminal proceedings had been initiated by the petitioner against the respondent. Admittedly, the petitioner has even sought no protection from the concerned authorities.

9. It therefore, appears that the apprehension expressed time and again by the petitioner is imaginary, as no steps have been taken by the

petitioner for alleviation thereof. It seems that the petitioner is only trying to delay the present matter. Accordingly, no ground is made out to interfere in the impugned order. Even otherwise it has come on record that vide order dated 14.03.2023, even the evidence on behalf of the defendant has been closed, whereafter petitioner was afforded an opportunity for evidence in rebuttal, however, no evidence in rebuttal was led by the petitioner.

10. In view of the discussion hereinabove, I find no merit in the present revision petition.

11. Dismissed.

13.04.2023

ps-I

(Nidhi Gupta)
Judge

Whether speaking/reasoned Yes

Whether reportable Yes/No