

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

114

CR-2381-2023

Date of decision : 21.04.2023

Baldev Singh

... Petitioner

Versus

Sanjeev Agarwal and others

.. Respondents

CORAM :HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Hanspuneet Singh Kehal, Advocate for the petitioner.

Anupinder Singh Grewal, J. (Oral)

The petitioner/plaintiff has challenged the order dated 02.03.2023 whereby his application for withdrawing his statement made on 09.09.2022 for closing the evidence has been dismissed.

Learned counsel for the petitioner submits that the petitioner had filed a suit for possession and mandatory injunction. He had examined three witnesses and had made a statement for closing his evidence on 09.09.2022 on the advise of his counsel which he later found was not in his interest. He further submits that when the petitioner/plaintiff had made a statement on 09.09.2022, neither the defendants nor their counsel was present. The petitioner had also changed his counsel and had preferred an application for withdrawing the statement. He also submits that the petitioner/plaintiff is seeking only two effective opportunities to examine two witnesses which include Clerk from the office of Sub-Registrar and the Draftsman, who had prepared the site plan.

Heard.

The petitioner/plaintiff had filed a suit for possession of 13 marlas of land out of khasra No.27/29, khata khatauni No.1380/1953 as is incorporated in the jamabandi for the year 2011-12, situated at village Verka, Tehsil and

District Amritsar i.e. 6 karms from the northern side, 4 karms from the southern side, 24 karms from the western side and 26 karmas from the eastern side, in all 13 marlas, duly shown as red and marked as ABCD in the site plan along with suit for mandatory injunction directing the defendants to demolish the wall constructed by them on the land forming part of khasra no.27//29, mark E to B in the site plan and to hand over the vacant possession of the suit land to the petitioner/plaintiff.

The petitioner/plaintiff had closed his evidence on 09.09.2022 on the advise of the counsel. He had later changed his counsel and filed an application under Section 151 CPC for withdrawing his statement made on 09.09.2022 and for summoning the Clerk from the office of Sub Registrar and Mr. Rohit Gupta, Draftsman, who had prepared the site plan as witnesses. His application had been dismissed by the trial Court by the impugned order dated 02.03.2023. The petitioner is seeking only two effective opportunities to lead his evidence. It would be in the interest of justice if the petitioner is granted two effective opportunities to examine the aforementioned witnesses.

Consequently, the petition is allowed and the impugned order dated 02.03.2023 is set aside. The petitioner/plaintiff would be afforded two effective opportunities to examine the aforementioned witnesses subject to payment of Rs.5,000/-, to be paid to the respondents/defendants as cost.

This order has been passed without issuance of notice to the respondents/defendants as doing so would delay the proceedings. In the event of the respondents/defendants being aggrieved of the order, they would be at liberty to prefer an application in that regard.

(ANUPINDER SINGH GREWAL)
JUDGE

April 21, 2023
sonia gugnani

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