

CR-4180 of 2023

2023:PHHC:097595

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

CR-4180 of 2023

Date of decision: 27.07.2023

Raj Bala

.....Petitioner

Versus

Municipal Corporation Faridabad and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Yash Dev Kaushik, Advocate,
for the petitioner.

NAMIT KUMAR, J.

1. Instant revision petition has been preferred by the plaintiff-petitioner under Article 227 of the Constitution of India impugning the order dated 06.07.2023 passed by the Court of learned Civil Judge (Junior Division), Faridabad, whereby evidence of the petitioner-plaintiff, has been closed by Court order.

2. The brief facts leading to the filing of present revision petition are that petitioner filed a suit for permanent injunction as well as mandatory injunction directing the respondents to remove the supporting pole erected illegally and unlawfully in the property of the petitioner-plaintiff and further for restraining the respondent-defendants from interfering in the peaceful possession of the petitioner over the suit property. Upon notice respondent-defendants filed their written statement. On an application of the petitioner, vide order dated 17.07.2018 local commissioner was appointed and he filed demarcation

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report. Petitioner again filed an application for directing the local commissioner to file a fresh demarcation report, which was dismissed by the Civil Judge (Junior Division), Faridabad, vide order dated 12.08.2022. As the petitioner failed to lead her evidence despite number of opportunities, her evidence was closed vide order dated 06.07.2023. Hence, this revision petition.

3. Learned counsel for the petitioner contended that the trial Court has wrongly closed the evidence of the petitioner. He further submitted that examination of local commissioner along with report is very much necessary for proper adjudication of the case. Therefore, petitioner may be granted one opportunity to lead her evidence.

4. I have heard learned counsel for the petitioner and perused the record.

5. Perusal of file shows that on 06.07.2023 PW Harish Kanoongo was present in Court for his examination. However, learned counsel for the petitioner-plaintiff refused to examine the said witness stating that he wanted to examine some other witness and not the PW summoned in the Court without making statement regarding discharge of summoned official witness. Keeping in view the stand of the plaintiff, the said PW was discharged. Learned counsel for the petitioner-plaintiff had requested to file another list of witnesses and undertook to do the same on the same date, which was allowed by the Court. The matter was taken up post-lunch, however, no list of witnesses required to be summoned was filed by the petitioner-plaintiff.

It is further evident on the record that despite availing 14 effective

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opportunities, petitioner-plaintiff failed to conclude the evidence. Therefore, this Court does not find any ground to grant any further opportunity to the petitioner to conclude her evidence inasmuch as she has failed to conclude her evidence despite availing numerous effective opportunities.

6. In view of the above, I do not find any illegality or perversity in the impugned order. Hence, the revision petition is dismissed in limine.

27.07.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether Reportable

:

Yes/No