

CR-5097-2023

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

Sr. No.137

CR-5097-2023

Date of Decision: 04.09.2023

SMT. MAHADEI

....Petitioner

Versus

BALBIR

.....Respondent

CORAM: HON'BLE MRS JUSTICE ARCHANA PURI

Present:- Mr. Bhisham Kumar Majoka, Advocate
for the petitioner.

ARCHANA PURI, J. (Oral)

The present revision petition has been filed by the petitioner under Article 227 of the Constitution of India, thereby making prayer for setting aside the order dated 25.05.2023 (Annexure P-4), passed by learned Court below, whereby the evidence of the petitioner has been closed by order.

Learned counsel for the petitioner heard.

As culled out from the paperbook, a suit for specific performance was filed by Mahadei against the respondent Balbir, thereby seeking specific performance of an agreement to sell dated 18.04.2016. Statements of three PWs had already been recorded and the evidence of the petitioner was closed, vide the impugned order dated 25.05.2023, as Mahadei, who was being examined as PW-4, was not present.

It is submitted that it was only on account of ill health, the petitioner could not make appearance on the date fixed.

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Copies of the zimini orders, passed by the learned Court below, pending since 04.08.2022, have been placed on record. It is not that the said witness, who is plaintiff herself had not made appearance. Earlier her examination-in-chief and part cross-examination has also been recorded and further cross-examination was deferred at the behest of learned counsel for the respondent. Only thereafter on 25.05.2023, when the petitioner could not make appearance, before the Court below, due to her ill health, the evidence was closed by order.

Also, it is submitted that the case has not made any further progress and only affidavit of the defendant has been tendered but the cross-examination is yet to be recorded.

Keeping in view the aforesaid fact situation and in the interest of justice, the impugned order dated 25.05.2023 (Annexure P-4) is hereby set aside and only one opportunity is given to the petitioner to make appearance before the Court on the next date fixed. In pursuance of appearance on that day, the cross-examination of the petitioner shall be conducted on that day and it shall be completed at the most, within a period of seven days, thereafter. However, the aforesaid opportunity is granted, subject to payment of Rs.10,000/- as costs, to be deposited before the concerned District Legal Services Authority.

Accordingly, the revision petition stands disposed of.

(ARCHANA PURI)
JUDGE

04.09.2023
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Whether speaking/reasoned : Yes

Whether reportable : Yes/No