

2023:PHHC:133120

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

CR-5756-2023 (O&M)
Date of decision: 12.10.2023

Vijay Sharma

....Petitioner

Versus

Vidhu Puri and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Anish Setia, Advocate for the petitioner

ANIL KSHETARPAL, J (Oral)

1. The petitioner is one of the plaintiffs who have filed a suit for specific performance of the agreement to sell. When the case was fixed for the plaintiff's evidence Vijay Sharma (petitioner) appeared and was examined in chief, however, on the request of the learned counsel representing the defendants, his cross examination was deferred. He was bound down to appear on the next date of hearing i.e 12.07.2023. However, he did not appear. Taking note of that fact, cost was imposed but the petitioner did not appear to face cross-examination. Ultimately, on 23.08.2023, the Court below closed the plaintiff's evidence.

2. Learned counsel representing the petitioner submits that the petitioner was suffering from depression and therefore, he went abroad for getting the treatment done. He submits that the case is now fixed for the defendant's evidence on 13.10.2023 and the petitioner is prepared to appear and face cross-examination.

3. This Court has considered the submissions made by the learned counsel representing the petitioner. Though the petitioner has been negligent in prosecuting his case, however, the suit is for the specific performance of the agreement to sell. The petitioner has produced some documents to establish that he was undergoing treatment for depression. In these circumstances, the court is required to take a holistic view of the matter.

4. Keeping in view the aforesaid facts, the petitioner is permitted to appear before the trial court on 30.10.2023 to face cross-examination, subject to payment of cost of Rs.5,000/-, which shall be the condition precedent for an opportunity to appear before the trial court. If the petitioner appears and tenders the costs, he shall be permitted to be cross-examined by the learned counsel representing the defendants.

5. Disposed of, accordingly.

6. All the pending miscellaneous applications, if any, are also disposed of.

12.10.2023

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE