

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-6294-2023

Decided on:-19.10.2023

Sudela Devi

....Petitioner.

vs.

Devender Goyal

....Respondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Aditya Jain, Advocate,
for the petitioner.

HARKESH MANUJA J. (Oral)

1. By way of present revision petition, prayer has been made for setting aside of an order dated 16.08.2023 passed by the Civil Judge (Senior Division), Faridabad, whereby an opportunity granted to the petitioner to rebut the evidence of Devender Goyal (PW-4) has closed by Court orders.
2. In the present case, respondent-plaintiff filed a suit for possession by way of specific performance, based on agreement to sell dated 03.03.2016. Issues were framed on 27.11.2019. The respondent-plaintiff evidence was closed by Court orders on 06.07.2022 and the matter was posted for evidence of petitioner-defendant.
3. During its pendency, on 17.11.2022, an application came to be filed on behalf of respondent/plaintiff, praying for his own cross-examination being PW-4. The prayer was allowed by the Trial Court on 19.11.2022 and since then the proceedings in the suit continued for the purpose of effecting cross-examination upon respondent-plaintiff (PW-4),

which finally concluded on 09.05.2023. Thereafter, the petitioner-defendant was granted opportunity to lead evidence in rebuttal to the statement made by PW-4-respondent-plaintiff. On account of the petitioner-defendant having failed to do the needful, the said opportunity was closed vide order dated 16.08.2023.

4. By way of present revision petition, aforesaid order dated 16.08.2023 has been assailed at the instance of petitioner-defendant while submitting that though petitioner was afforded two effective opportunities to lead evidence in order to rebut the statement made by PW-4 (Devender Goyal), however, for bonafide reasons, the same could not be done. He further submits that in case one last opportunity is granted to do the needful, it would further the cause of justice and would help the petitioner to put forth her defence.

5. I have heard learned counsel for the petitioner and gone through the paper book.

6. In the present case, though there does not appear to be any perversity with the order passed by the Trial Court, yet, in the interest of justice, one last opportunity needs to be afforded to the petitioner so as to permit her to lead evidence in rebuttal to the statement made by PW-4-Devender Goyal. The grant of opportunity would even help the petitioner-defendant to put forth her defence and would further the cause of justice as well.

7. The date be fixed in this regard as per the convenience of the Trial Court, however, the same shall be subject to payment of costs of Rs.10,000/- to be paid by the petitioner to the respondent-plaintiff on the

said date.

8. Keeping in view the nature of proceedings, the present petition is being disposed of without issuing prior notice to the respondent, in order to avoid unnecessary delay in the proceedings, pending before the Trial Court, however, in case any mis-statement of facts is found on the part of petitioner, the respondent shall be at liberty to approach this Court by moving an appropriate application in this regard.

19.10.2023
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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/ No