

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

128

CR-705-2024 (O&M)
Decided on: 14.03.2024

Paramjit Singh

...Petitioner

Versus

Jatinder Kaur and others

...Respondents

CORAM: HON'BLE MRS JUSTICE RITU TAGORE

Present: Mr. J. S. Bhinder, Advocate
for the petitioner.

Respondent N.2 in person with
Mr. C. S. Bakshi, Advocate.

RITU TAGORE, J.

1. The challenge in this revision is to the order dated 08.12.2023 (Annexure P-1) passed by learned Civil Judge (Junior Division-9), Patiala in a Civil Suit No.1472 of 2020 captioned as ‘Jatinder Kaur and another Vs. Paramjit Singh and another’ whereby the evidence of petitioner (defendant No.1) has been closed by Court order. A prayer is made to set aside the impugned order and grant one opportunity to lead the evidence.
2. I have heard learned counsel for the parties and gone through the paper-book with their valuable assistance.
3. Learned counsel for the petitioner submits that respondents No.1 and 2 filed a civil suit for declaration to the effect that they are owners in possession to the extent of 1/4th share each and for partition of the

properties mentioned in the head note of the plaint (Annexure P-2) with further prayer for permanent injunction, restraining the petitioner and respondent No.3 from alienating and disposing any specific share in the suit properties. Learned counsel contended that in the aforesaid suit respondents No.1 and 2 alleged that Satnam Kaur (their mother) was owner of the properties and died intestate leaving behind petitioner and respondents No.1 to 3 as her legal heirs and property being ancestral, respondents and petitioner are co-sharer in the suit properties.

4. The learned counsel contended that the petitioner filed the written statement and controverted the averments of the respondents No.1 and 2 and specifically pleaded that mother of the petitioner owned property situated at Moti Bagh Gurudwara and one shop situated at Pilli Sadak, Ragho Majra, Patiala and was not owner of the house bearing No.102/5, old Sabzi Mandi, Guru Nanak Street, Patiala as per their written statement (Annexure P-3).

5. The learned counsel submitted that the petitioner was suffering from dengue fever and was taking treatment. His evidence was closed illegally by the learned trial Court. Learned counsel submits that he wants to examine Patwari and present revenue record to show that property in dispute is not an ancestral property and house bearing No.102/5, Old Sabzi Mandi, Guru Nanak Street, Patiala was not owned by their mother. It is prayed that one opportunity be given to lead the evidence.

6. Learned counsel for the respondents on the other hand submits that the impugned order is self sufficient, revealing that petitioner was negligent in pursuing his case. He failed to conclude his evidence despite availing 09 opportunities. It is stated that no case is made out to grant opportunity to the petitioner.

7. Although, I find that there has been some inaction on the part of the petitioner in not prosecuting the litigation with due diligence but, still, it could not be suggested that delay has been caused by the petitioner for any *mala fide* reasons. It is well established that the Court should adopt a liberal approach and rights of the parties should be adjudicated on the merits of the controversy rather thwarting the same on rigid technicalities. Furthermore, the counsel on behalf of the petitioner undertakes to conclude his evidence in one opportunity by tendering the revenue record only.
8. In these circumstances, I believe that one opportunity be granted to the petitioner to conclude his evidence by tendering the revenue record. Accordingly, impugned order dated 08.12.2023 (Annexure P-1) is set aside. The learned trial Court shall provide the petitioner with one effective opportunity to present the revenue record in his evidence on due date of hearing or any other date convenient to the opposing party and the Court’s own workload.
9. Accordingly, revision petition is allowed in above terms.
10. Pending applications, if any, also stands disposed of accordingly.

(RITU TAGORE)
JUDGE

14.03.2024
Rimpal

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