

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

124

CR-464-2024 (O&M)

Date of decision:29.01.2024

M/s M-13 Buildcon through its Special Power of Attorney Mansimran Singh
Makkar

... Petitioner

Vs.

Improvement Trust, Kapurthala & another

... Respondents

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. Namit Gautam, Advocate for the petitioner.

...

SUKHVINDER KAUR, J.

1. The instant revision petition has been filed by petitioner/ plaintiff against the order dated 16.11.2023 (Annexure P-15) passed by the Civil Judge (Jr. Division), Kapurthala, whereby evidence of the petitioner has been closed by order.

2. Brief facts are that a suit for declaration was filed by plaintiff/petitioner to the effect that the order regarding resumption of Plot No.59 in Scheme No.1, Model Town, measuring 525 Sq. ft. situated in Model Town Kapurthala, vide resolution No.530 dated 19.05.2015 and allegedly approved by the State Government vide letter dated 10.01.2018 allegedly intimated by the defendants vide letter No.KIT/2017/460/51 dated 24.08.2017/15.09.2017 is wrong, illegal, void, inoperative and ineffective and not binding on the rights of the plaintiff in any manner and the plaintiff continues to be allottee/owner of the said plot and suit for mandatory injunction requiring the defendants to get removed the high tension electric

wires passing overhead the said plot and suit for permanent injunction restraining the defendants from auctioning, transferring, allotting the said plot to any other person in any manner.

3. During the pendency of the suit, several effective opportunities were provided to the petitioner/plaintiff to conclude his entire evidence but he failed to conclude the same. Therefore, the trial Court vide the impugned order dated 16.11.2023 closed his evidence by order. Hence, aggrieved by this order the present revision petition has been filed by the petitioner/plaintiff before this Court.

4. Learned counsel for the petitioner has contended that the trial Court has erred in not appreciating that due to Covid restrictions and the instructions issued by this Court vide letter dated 17.03.2020, the matter kept on adjourning from one date to another. He has further argued that the matter had also been referred to the Lok Adalat for the compromise which also consumed time. On many occasions, the witness was present for cross-examination but on the request of the counsel for the defendants, the matter was got adjourned. The petitioner had appeared as PW1 and had tendered his affidavit by way of examination-in-chief and had been partly cross-examined and completion of his cross-examination is essential for proving his case. He has urged that the order passed by the trial Court is too harsh and has resulted in miscarriage of justice and has prayed that it would be in the interest of justice, if one opportunity is granted to the petitioner to conclude his entire evidence, as said evidence is necessary for proper adjudication of the matter.

5. I have heard learned counsel for the petitioner at length and

have perused the pleadings on record.

6. Perusal of the impugned order reveals that it has been mentioned therein that the plaintiff was given 30 effective opportunities for concluding his evidence but despite granting various adjournments and imposing of cost, he failed to conclude his evidence and then it was closed by the Court on 16.11.2023.

7. Though there is no infirmity in the impugned order, yet it will be appropriate, if in the interest of justice, one effective opportunity is given to the petitioner to conclude his evidence, as petitioner is appearing as his own witness and testimony of PWs is material to prove his case. The other party can be well compensated with costs. Therefore, the impugned order is set aside. The trial Court will grant one effective opportunity to the petitioner to conclude his entire evidence subject to payment of costs of Rs.15,000/- to the respondents.

7. Revision petition is allowed in the aforesaid terms.

8. Pending application(s), if any, shall also stand disposed of.

(SUKHVINDER KAUR)
JUDGE

29.01.2024
harjeet

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |