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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-1898-2024 (O&M)
Date of decision : 01.04.2024

Subhash Chander @ Subhash Bhargav ... Petitioner(s)

Versus

Braham Dutt Sharma ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Prateek Sodhi, Advocate for the petitioner.

Mr. Umesh Aggarwal, Advocate for the respondent.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed against the impugned order dated 27.02.2024 (Annexure P-3) whereby the evidence of the plaintiff-petitioner has been closed by order.
2. Learned counsel for the plaintiff-petitioner would contend that since the plaintiff-petitioner was abroad, hence, the evidence could not be produced and that only the cross-examination of PW-4 remains and one attesting witness has to be produced to prove the Will. The learned counsel for the plaintiff-petitioner would contend that given one opportunity the plaintiff-petitioner would lead his entire evidence at his own risk and responsibility and that he is also willing to compensate the defendant-respondent by way of heavy costs.

3. Notice of motion.

4. Mr. Umesh Aggarwal, Advocate, who is present in Court, has put in appearance on behalf of the defendant-respondent and has filed his memorandum of appearance, which is taken on record and states that he has instructions to appear in the matter. Learned counsel for the defendant-respondent states that the plaintiff-petitioner has been delaying the matter and despite 55 effective opportunities he has failed to conclude his evidence.

5. I have heard the learned counsel for the parties.

6. In the present case the suit is for declaration to the effect that the plaintiff-petitioner is the owner of the property as detailed in the head-note of the plaint. The issues in the present case were framed on 28.03.2017 and the plaintiff-petitioner has been delaying the matter by not leading his evidence. No doubt the plaintiff-petitioner has been remiss in not leading his evidence in entirety, however, keeping in view the fact that only the cross-examination of PW4 remains and one more witness needs to be produced to prove the Will, this Court deems it appropriate to grant one effective opportunity to the plaintiff-petitioner to lead his entire evidence at his own risk and responsibility. However, in view of the fact that despite 55 opportunities the evidence has not been led, the opportunity would be subject to payment of costs of Rs.50,000/- i.e. Rs.25,000/- to be deposited with the Punjab State Legal Services Authority and Rs.25,000/- to be paid to the defendant-respondent, which shall be a condition precedent.

7. Disposed off accordingly. Pending applications, if any, also stand disposed off.

01.04.2024
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO