

134 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2034-2023(O&M)

Date of decision :23.04.2024

Vijay Kumar Goyal (now deceased)
through his LRs

...Petitioner

Vs.

Surinder Kumar and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Promila Nain, Advocate
for the petitioners.

Mr. Shehbaz Thind, Advocate
for respondent No. 4(b).

ANIL KSHETARPAL, J. (Oral)

1. In substance, the petitioners are praying for one more opportunity to lead evidence. The trial Court in the order dated 15.03.2023, has observed as under:-

“On 9.12.2022 the court observed and passed zimni that the plaintiff has availed as many as 27 effective opportunities to conclude his evidence, hence despite availing last and final opportunities, the plaintiff has failed to conclude his evidence. The plaintiff has left no stone unturned to delay the proceedings of the present case. Though the conduct of the plaintiff does not deserve any leniency still in the interest of justice, one super last opportunity is being granted to the plaintiff to conclude his entire evidence at his own responsibility on the next date of hearing failing which the same shall be closed by order. The case was adjourned to 12.12.2022 for PWS subject to super last opportunity to conclude the evidence as well as for filing amended title. Further, on 12.12.2022 since the plaintiff has failed to produce his evidence as such this court closed the evidence of the plaintiff by order and case was adjourned for 22.12.2022 for evidence of the defendants. Even otherwise attorney of the plaintiff has

already been examined and cross examined and the LRS are only foot step of the plaintiff, they cannot take different view than that of the plaintiff and that of the attorney of the plaintiff. Moreover, attorney is none else but the wife of vijay kumar and mother of other legal heirs of vijay Kumar. The remaining averments have been controverted and prayer for dismissal of the present application has been made.”

2. Admittedly, the predecessor-in-interest of the petitioners, late Sh. Vijay Kumar Goyal filed a suit in the year 2013, for specific performance of the agreement to sell. The widow of Sh. Vijay Kumar Goyal has already been examined. The plaintiffs have also examined various other witnesses including Hira, Mohd. Sadik, Poonam Wasan.

3. Hence, the Court did not grant any further opportunity to the petitioners.

4. Heard the learned counsel representing the petitioners at length.

5. While referring to the statement of Smt. Meenal Goyal, Widow of Late Sh. Vijay Kumar Goyal, she submits that she has appeared in the Court on the basis of a General Power of Attorney executed by Sh. Vijay Kumar Goyal. She further submits that by then, the Power of Attorney had come to end because Sh. Vijay Kumar Goyal died on 20.02.2020.

6. This Court has considered the submission.

7. In a suit for specific performance of the agreement to sell, the plaintiff is required to prove the existence and genuineness of the agreement to sell, which is in writing. The widow of the deceased has already been examined.

8. Her deposition shall be treated as a legal representative of the deceased-plaintiff, namely, Sh. Vijay Kumar Goyal. However, the petitioners

do not deserve further opportunity, particularly when after grant of as many as 27 opportunities, the Court further gave a super last opportunity to the petitioners. The observations made by the trial Court are sufficient for this Court to refuse to exercise discretion in favour of petitioners.

9. With these observations, the revision petition is disposed of.

23.04.2024		(ANIL KSHETARPAL)	
neeraj	Whether speaking/reasoned :	Yes	No
	Whether Reportable :	Yes	No