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

CR-4076-2024(O&M)
Date of decision : 07.08.2024

Narjeet and others

... Petitioners

Versus

Hukmi and others

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Rajiv Sharma, Advocate
for the petitioners.

Mr.Kartar Singh, Advocate
for respondents no.11 and 12 and
for subsequent purchaser Anju Dagar.

VIKAS BAHL, J.(ORAL)

1. This is a civil revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 30.11.2022 passed by the Civil Judge (Jr. Div.), Faridabad, whereby the evidence of the petitioners had been closed by order.

2. Learned counsel for the petitioners has submitted that in the present case, the evidence of the petitioners was closed on 30.11.2022 and thereafter, the case was fixed for the evidence of the defendants. It is submitted that only one witness in chief has been examined by the defendants and on 24.07.2024, an application had been moved by Anju Dagar under Order 1 Rule 10 (2) CPC for adding her, who is a lis pendens

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purchaser in place of defendants no.10 and 11 and the case had been adjourned to 13.08.2024 for filing of reply to the said application. It is submitted that the petitioners had filed a suit for declaration and permanent injunction and in case two effective opportunities are not granted to the petitioners for leading their oral evidence, then, the same would cause irreparable loss to the petitioners. It is prayed that in the interest of justice, two effective opportunities be granted to the petitioners to lead their entire evidence. Learned counsel for the petitioners has further submitted that defendants no.1 to 10 in the suit (respondents no.1 to 10 herein) have already been proceeded against ex-parte by the trial Court vide order dated 04.02.2019 and only defendants no.11 and 12 are contesting parties, although, even they have further sold the land.

3. Learned counsel appearing for respondents no.11 and 12 and also for subsequent purchaser Anju Dagar has not disputed the fact that defendants no.1 to 10 (respondents no.1 to 10 herein) have already been proceeded against ex-parte by the trial Court vide order dated 04.02.2019. It is submitted by the counsel that the application of Anju Dagar for impleadment is still pending for 13.08.2024 and thus, in case, any opportunity is to be granted, then, the same be done after the final order is passed on the application. It is further submitted that costs be also imposed upon the petitioners for delaying the proceedings.

4. Keeping in view the above said facts and circumstances, moreso, the fact that the suit has been filed by the petitioners for declaration and permanent injunction and in case, the petitioners are not granted

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effective opportunity to lead their entire evidence, then, it would cause irreparable loss to the petitioners and in view of the fact that the case is pending for 13.08.2024 for filing reply to an application under Order 1 Rule 10(2) CPC, having been filed by Anju Dagar and also the fact that chief of only one witness of the defendants has been recorded, the order dated 30.11.2022 is set aside and the present civil revision petition is partly allowed in the following terms:-

i) The trial Court would grant two effective opportunities to the petitioners to lead their entire evidence. The said two effective opportunities would be granted after the application under Order 1 Rule 10(2) CPC, which had been filed by Anju Dagar, is finally decided by the trial Court.

ii) The same would be subject to the petitioners depositing an amount of Rs.10,000/- within a period of two weeks from today in the trial Court and the trial Court is directed to release the said amount to respondents no.11 and 12 in the present revision petition.

5. It is made clear that in case the said amount is not deposited within the aforesaid period, then, the present civil revision petition shall be deemed to have been dismissed.

6. Pending application, if any, stands disposed of in view of the abovesaid order.

(VIKAS BAHL)
JUDGE

August 07, 2024
Davinder Kumar

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

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