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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

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Date of Decision: 16.05.2024.

Khadi Ashram, Chandigarh

...Petitioner.

Versus

Khadi Ashram, Panipat and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Kanwaljit Singh, Sr. Advocate with
Ms. Navyug Geet Brar, Advocate
for the petitioner.

Mr. Bhupesh Dogra, Advocate
for respondent No.1.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner has challenged order dated 12.05.2023 (Annexure P-7) passed by learned Trial Court, vide which the application of the petitioner for placing on record the relevant resolution dated 09.03.2015 and 14.03.2019 and to continue with the same to file the suit, was dismissed.

2. The brief facts relevant for the adjudication of the present revision petition are that the plaintiff/ petitioner filed a suit for specific performance on the basis of a tripartite agreement dated 18.10.1979 praying for compliance of the terms of the tripartite agreement and for the specific performance thereof.

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3. The written statement was filed by the defendants wherein besides taking the other pleas, an objection was raised that the suit has not been filed through a duly authorized person. But in the replication filed to the written statement, it was pleaded that the suit has been filed by the plaintiff after a valid resolution having been passed by the competent authority. Issue No.2 was framed regarding 'Whether the suit has not been filed by duly authorized person?'. Defendants were to discharge the onus behind the said issue. After the petitioner/plaintiff closed its evidence, defendant No.1 did not produce any evidence and closed the same. Thereafter, an application for additional/rebuttal evidence was filed by the petitioner/plaintiff submitting therein that the civil suit was filed on 17.03.2015 but inadvertently the resolutions dated 09.03.2015 and 14.03.2019 could not be produced and instead a resolution dated 16.12.2017 had been produced. Reply to the said application was filed by respondent/defendant. The said application was dismissed by the trial Court, vide order dated 12.05.2023.

5. Aggrieved by the said order, the present revision petition has been filed by the petitioner before this Court.

6. Learned counsel for the petitioner has contended that after closing of evidence by the plaintiff, the onus of Issue No.2, being on the defendant, who did not produce any evidence, the present application was necessitated to place on record the two resolutions dated 09.03.2015 and 14.03.2019, which goes to the root of the case. He has further contended that the plaintiff by inadvertence did not produce the resolutions dated

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09.03.2015 and 14.03.2019 alongwith the minutes book on account of death of the then Secretary. He has argued that the impugned order is totally unjust, arbitrary and is against the well settled principles of law. The case is still at the evidence stage and the technicalities are not to stand in the way of the substantial justice. He has further submitted that the suit was filed by the then Secretary and on his death, the next Secretary filed resolution (Ex.P-2) duly authorizing him to continue with the suit. Besides the above, the authorized secretary has also proved rules and regulations and constitution of the society. He has urged that the matter is serious in nature and requires specific performance of a tripartite agreement, which was challenged by the defendant who failed in its challenge before the trial Court and the first Appellate Court and the matter is still pending in RSA before this Court.

7. During the course of arguments, it has been submitted by learned counsel for the respondents that as per the instructions the respondents have no objection if the plaintiff is allowed to lead the additional evidence for proving resolution dated 09.03.2015 and 14.03.2019, subject to payment of cost.

8. I have heard learned counsel for the parties and have gone through the relevant record.

9. So, in view of the facts and circumstances of the present case to adjudicate effectively the controversy between the parties and in view of the submission made by learned counsel for the respondent, it will be appropriate and in the interest of justice, if one effective opportunity is afforded to the petitioner for leading additional evidence pertaining to

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resolutions dated 09.03.2015 and 14.03.2019. The trial Court is directed to grant one effective opportunity to the petitioner to lead the above said evidence at own responsibility, subject to payment of costs of Rs.6,000/- to be paid to the respondents/ defendants.

10. Revision petition is allowed in the aforesaid terms.

11. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

16.05.2024.

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Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No