



**117 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-5055-2019 (O&M)

Date of decision: 07.05.2024

Charanjit Singh Bajaj

....Petitioner

Versus

Rajesh Kumar Jain

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Viren Jain, Advocate for the petitioner
Ms. Komal Balyan, Advocate for the respondent

ANIL KSHETARPAL, J (Oral)

1. In this revision petition, the petitioner assails the correctness of the two interlocutory orders passed on 04.10.2018 and 06.07.2019. The plaintiff's evidence has been closed vide order dated 04.10.2018 whereas the application for recall of the order has been dismissed by the trial court on 06.07.2019. Learned counsel representing the petitioner contends that the defendant has failed to produce the original sale deed dated 29.03.1994 and hence, the plaintiff could not appear in evidence as he was to accept the sale deed dated 29.03.1994 in favour of the defendant. He refers to the order dated 11.10.2017 directing the defendant to produce the sale deed dated 29.03.1994.

2. Per contra, the learned counsel representing the respondent submits that the plaintiff has already availed sufficient opportunities to conclude his evidence.

3. This Court has considered the submissions made by the learned counsel representing the parties.

4. On reading of the order dated 11.10.2017, it becomes evident that the plaintiff appeared in the court for his examination-in-chief to be recorded by way of an affidavit. At that stage, an objection was raised by the defendant that since the copy of the said sale deed is on record but in the absence of its original copy, it cannot be accepted. It is on the objection of the defendant that the direction was issued to the defendant to produce the original registered sale deed. The plaintiff has filed a suit for specific performance of the agreement to sell. In such circumstances, oral testimony of the plaintiff shall be necessary. Admittedly, despite direction from the court, the defendant has not produced the original sale deed dated 29.03.1994.

5. Keeping in view the aforesaid facts, it is considered appropriate to grant one more opportunity to the plaintiff to appear in evidence, subject to payment of Rs.5,000/- as costs to be paid to the defendant.

6. The revision petition stands allowed.

7. All the pending miscellaneous applications, if any, are also disposed of.

07.05.2024

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE