



CR-5155-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(122)

CR-5155-2024

Date of Decision: - 09.09.2024

Sonu

....Petitioner

Versus

Narender Mudgil and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Sushil Jain, Advocate,
for the petitioner.

VIKAS BAHL, J. (ORAL)

1. Present revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 23.08.2024 (Annexure P-13) passed by the Civil Judge (Senior Division), Sonipat whereby the application dated 12.07.2023 (Annexure P-11) filed by the petitioner for setting aside the order dated 18.05.2023 (Annexure P-10) was dismissed.

2. Learned counsel for the petitioner has submitted that in the present case, the issues were framed on 01.02.2018 (Annexure P-3) and thereafter, the case was fixed for the evidence of the plaintiff/respondent and the said evidence of the plaintiff/respondent was closed on 12.01.2023 (Annexure P-7) and the first date for the evidence of the defendant was 10.02.2023. It is further submitted that on 10.02.2023, no DW was present and likewise, no DW was present on 22.02.2023 and the

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case was adjourned to 04.04.2023. On 04.04.2023, the matter could not be taken up as 04.04.2023 had been declared a holiday and accordingly, the case was taken up on 01.04.2023 and the case was adjourned to 01.05.2023. It is stated that by the said date, three dates had been taken by the petitioner, whereas, on 01.05.2023, it was mentioned that the petitioner had already availed 4-5 effective opportunities including the last opportunity, which was factually incorrect. It is argued that by the impugned order, the defendant evidence has been closed. It is prayed that only one opportunity be granted to the petitioner as otherwise, serious prejudice would be caused to him since the suit filed by the respondent/plaintiff is for specific performance of the alleged agreement to sell with respect to the house measuring 77 square yards belonging to the petitioner. It is submitted that in case, the petitioner does not lead any defence evidence, then, the suit of the plaintiff/respondent would be decreed in default and the petitioner would stand to lose his house. It is stated that although the petitioner had not diligently pursued the matter, but the petitioner is ready to compensate the respondent/plaintiff in case one opportunity is granted to the petitioner to lead his entire evidence.

3. Keeping in view the above-said facts and circumstances, the present revision petition is partly allowed and the impugned order dated 23.08.2024 (Annexure P-13) and order dated 18.05.2023 (Annexure P-10) are set aside and the petitioner is granted one effective opportunity at his own responsibility to lead his entire evidence. The same would be subject to the cost of Rs.15,000/-, being paid to respondent No.1, who is the

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plaintiff in the present case. The next date before the trial Court is stated to be 11.09.2024, on which date the petitioner would bring to the notice of the trial Court, the passing of the present order and the trial Court would grant one date to the petitioner to lead his entire evidence and on the said date, the petitioner would present his entire evidence, which would be examined in accordance with law.

4. It is made clear that in case the petitioner does not present his entire evidence on the said date, then, the present revision petition would be deemed to be dismissed. The petitioner would also deposit an amount of Rs.15,000/- by 11.09.2024, which would be released to respondent No.1/plaintiff by the trial Court. In case the cost is not deposited by the petitioner till the said date, the present revision petition would be deemed to have been dismissed.

5. It would be relevant to mention that notice of motion has not been issued to respondent No.1-plaintiff as the issuance of any notice would further delay the proceedings in the suit filed by respondent No.1 for specific performance and also entail expenses for respondent No.1 in order to defend the present petition. However, it would be open to respondent No.1 to move an application for recalling the present order in case any of the statements made before this Court is found to be false/incorrect.

September 09, 2024
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No