

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1.CR-6301-2023 (O&M)

Jagmal Singh since deceased through his LR
....Petitioner

Versus

Vikram Pal Singh and others
..Respondents

2.CR-7316-2023 (O&M)

Jagmal Singh since deceased through his LR
....Petitioner

Versus

Vikram Pal Singh and others
..Respondents

Date of decision: 24.04.2024

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Ashish Gupta, Advocate for the petitioner
Mr.Siddarth, Advocate for respondent no.1
Mr. Fateh Saini, Advocate for respondent no.2

ANIL KSHETARPAL, J (Oral)

1. By this order, two revision petitions i.e CR-6301-2023 and CR-7316-2023 shall stand disposed of by a common order.
2. In CR-6301-2023, the petitioner herein is the legal representative of defendant no.1 in a plaintiff’s suit for possession by way of the specific performance of the agreement to sell. When the case was fixed for evidence of legal representative of defendant no.1, he gave his power of attorney to Sh.Padam Singh to appear on their behalf. He filed his affidavit in lieu of examination in chief and was partially cross-

examined, however, thereafter, he did not appear. Thus, one of the legal representatives of defendant no.1, Sh.Umed Singh filed his own affidavit on behalf of defendant no.1. The same was accepted, however, the court has ordered its deletion by the impugned order. The trial court has held that once Padam Singh has been partially examined, Sh.Umed Singh s/o Sh.Jagmal Singh cannot be permitted to be examined. In the opinion of this Court, the opinion of the trial court is not supported by any provision of law. The reliance placed by the trial court on the judgment in **Pinki Lamba vs. M/s Stanley Industires and othes'** CR 262-2019 decided on 16.01.2019 is misplaced because of the fact that the aforesaid revision petition was dismissed in the peculiar facts of that case. Moreover, in that case, the proprietor of the partnership firm filed an affidavit and there was no assertion that the propreitor was not available or willing to come for cross-examination. In this case, Sh.Padam Singh is not coming forward to complete his deposition. In these circumstances, son of defendant no.1, has appeared in evidence. The evidence of Sh.Padam Singh cannot be read in evidence because it is not complete. Hence, the impugned order is set aside.

3. During the pendency of the revision petition, the trial court has also closed the opportunity to the legal representatives to lead their further evidence. Hence, CR-7316-2023 has been filed.

4. In the facts and circumstances of the present case, the trial court is directed to provide two effective opportunities to the petitioners to lead their evidence.

5. With these observations, both the revision petitions stand disposed of.
6. All the pending miscellaneous applications, if any, are also disposed of.

24.04.2024

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)

JUDGE