



201

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CR-3602-2023 (O&M)****Date of Decision : 27.08.2025**

Madhu

... Petitioner

Versus

Rani Kumar @ Rani Sahonta and Others

... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Atul Bhatia, Advocate for the petitioner.

Ms. Kanwar S. Walia, Advocate for respondent No.1.

Ms. Bhavna Kapur, Advocate for respondent Nos.3(i) and 3(iii).
(through hybrid mode).**ALKA SARIN, J. (Oral)**

1. Present revision petition has been preferred by the plaintiff-petitioner challenging the order dated 24.11.2022 closing the evidence of the plaintiff-petitioner and the order dated 24.04.2023 whereby the application for recalling of the order dated 24.11.2022 was also dismissed.

2. The brief facts relevant to the present *lis* are that the suit was filed on 29.04.2016 by the plaintiff-petitioner for declaration to the effect that she is in possession of the suit property. Challenge was also laid to the sale deed dated 20.11.1998 executed by Mohan Singh, Joginder Singh i.e. respondent Nos.2 and 3 herein and Santokh Singh (husband of the petitioner) on the ground that the same was the result of fraud. The case as set up in the plaint was that the plaintiff-petitioner married Santokh Singh on 19.04.2011 after he

had got a divorce from his first wife, namely, Rani Kumar @ Rani Sahonta i.e. respondent No.1 herein. Initially, the defendants were proceeded against *ex parte* vide order dated 10.10.2016. The issues were framed on 11.10.2018. Thereafter, the plaintiff-petitioner led her evidence. Subsequently, an application was filed by the defendants for setting aside the *ex parte* order, which was allowed vide order dated 20.11.2019. Thereafter, written statement was filed and replication was filed to the said written statement. Vide order dated 24.11.2022 the evidence of the plaintiff-petitioner was closed as she failed to lead evidence despite availing numerous opportunities as has been noticed in order dated 24.11.2022. Thereafter, defendant-respondent No.1, who is the only contesting respondent herein as the sale deed executed in 1998 is in her favour, led her evidence. The witnesses of defendant-respondent No.1 were duly cross-examined by the counsel for the plaintiff-petitioner and on 02.05.2023 counsel for defendant-respondent No.1 suffered a statement and closed the evidence on behalf of defendant-respondent No.1. After three witnesses of the defendant had been examined and cross-examined completely an application was filed by the plaintiff-petitioner herein for recalling the order dated 24.11.2022. In the impugned order dated 24.04.2023 it has been noticed that the case was received by transfer by the Court and by then DW3, DW4 and DW5 had been completely examined and fully cross-examined by the counsel for the plaintiff-petitioner. The said application was dismissed vide order dated 24.04.2023. Hence, present revision petition.

3. Learned counsel for the plaintiff-petitioner would contend that the plaintiff-petitioner would suffer irreparable loss in case she is not permitted to lead her evidence. It is further the contention that it has wrongly been noticed in the order that 74 opportunities were availed by the plaintiff-

petitioner. Infact, it was the summoned witnesses who were to be examined and therefore the Court erred in closing the evidence of the plaintiff-petitioner.

4. *Per contra* learned counsel for the defendant-respondent No.1 would contend that despite numerous opportunities the plaintiff-petitioner failed to lead her evidence rather she continued to file transfer applications, as is also apparent from the order that the case before the Court was also received by transfer, and it is only after three of the witnesses of the defendant-respondent No.1 had been examined and fully cross-examined by the counsel for the plaintiff-petitioner that the present application was moved. It is further the contention that irreparable loss would be occasioned to the defendant-respondent No.1 inasmuch as now the plaintiff-petitioner is fully aware of the evidence which has been led by the defendant-respondent No.1 and thus would have an opportunity to counter the same which she could not do as the evidence was to be led in the affirmative.

5. Heard.

6. In the present case the suit itself pertains to the year 2016 and falls under the Action Plan category. The Trial Court vide order dated 24.04.2023 while dismissing the application filed by the plaintiff-petitioner for recalling the order dated 24.11.2022 noticed that despite 71 opportunities till 08.09.2022 and 02 more thereafter i.e. total of 74 opportunities the evidence was not led. Defendant-respondent No.1, who is a Cancer patient, had come all the way from the UK however the plaintiff-petitioner deliberately exhausted even the stay of defendant-respondent No.1 and did not lead her evidence. Rather she kept moving applications for transfer. The application for recalling the order dated 24.11.2022, which has been appended alongwith the petition, is also totally bereft of any reasoning as to why the

plaintiff-petitioner waited till the witnesses of the defendant-respondent No.1 had been examined before filing the application for recalling of the order dated 24.11.2022. The explanation given in the application is justifying her not leading the evidence stating that it was during the Covid-19 period however, there is no explanation coming to as to why despite knowing the fact and despite her counsel being present on 24.11.2022 no application was filed. The counsel continued to appear and even cross-examined the witnesses of the defendant-respondent No.1 yet the application was filed only after three of the witnesses had been examined and cross-examined. Granting any further opportunity at this stage to the plaintiff-petitioner to lead evidence would mean also giving the defendants an opportunity to lead their evidence afresh leading to a delay in the disposal of the suit.

7. In view of the above and in view of the fact that the matter falls under the Action Plan category, there is no ground made out to interfere with the impugned orders passed by the Trial Court.

8. The present petition being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

27.08.2025
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO