



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

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CR No.6074 of 2019 (O&M)
Date of Decision: 23.01.2025

Purushotam Sharma and others

...Petitioners

V/s

Shiv Kumar and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Gulshan Nandwani, Advocate, for the petitioners.

Mr. Ajay Jain, Advocate, for respondent No.2.

VIKRAM AGGARWAL, J (ORAL)

The present revision petition is directed against the order dated 29.05.2019 (Annexure P-4) passed by the Court of learned Civil Judge (Jr. Divn.), Bawal, vide which the evidence of petitioner No.1-plaintiff was closed and order dated 20.08.2019 (Annexure P-7), vide which the application filed by petitioner No.1-plaintiff for leading evidence was dismissed.

2. A suit for specific performance of agreement to sell dated 18.11.2014 was filed on 11.12.2014. After completion of pleadings, issues were framed on 30.07.2018. For, the petitioners-plaintiffs could not lead and conclude their evidence, the same was closed by order on 29.05.2019 (Annexure P-4). This led petitioner No.1-plaintiff to file an application for leading evidence (Annexure P-5), which was resisted by way of reply (Annexure P-6). Ultimately, the application was dismissed vide order dated 20.08.2019 (Annexure P-7) leading to the filing of the present revision petition.



3. Learned counsel for the petitioners submits that only one effective opportunity would be required by the petitioners-plaintiffs to lead and conclude their evidence. He submits that the petitioners-plaintiffs had exercised due diligence but despite the same, the evidence could not be concluded in time. Learned counsel undertakes that the petitioners would not delay the trial and would lead and conclude the remaining evidence in one effective opportunity. Learned counsel further submits that vide order dated 25.09.2019, while issuing notice of motion, the coordinate Bench had stayed the passing of the final order by the trial Court.

4. *Per contra*, Mr. Ajay Jain, learned counsel representing respondent No.2 submits that instead of challenging the order dated 29.05.2019, the petitioners-plaintiffs filed another application for leading evidence which was not even maintainable. He submits that the proper remedy with the petitioners at that point of time was to challenge the order dated 29.05.2019. He submits that, in any case, no further opportunity deserves to be granted to the petitioners.

5. I have considered the submissions made by learned counsel for the parties.

6. Admittedly, issues were framed on 30.07.2018 and evidence of the petitioners was closed on 29.05.2019. The petitioners seek only one effective opportunity to lead and conclude their evidence. In the considered opinion of this Court, such opportunity should have been granted by the trial Court, which would have avoided the delay of 5 years, which occurred on account of the pendency of the present revision petition in this Court. In any case, this Court is of the considered opinion that matters should be decided on merits rather than on technicalities. Under the circumstances, I deem it



appropriate to grant one effective opportunity to the petitioners-plaintiffs to lead and concluded their evidence.

7. Accordingly, the revision petition is allowed and the impugned orders dated 29.05.2019 (Annexure P-4) and 20.08.2019 (Annexure P-7), passed by the Court of learned Civil Judge (Jr. Divn.), Bawal, vide which the evidence of the petitioners was closed, are set aside. The trial Court is directed to grant one effective opportunity to the petitioners to lead and conclude their evidence on a date to be fixed by it. This shall however, be subject to payment of costs of Rs.20,000/-, which shall be paid to the respondents-defendants.

(VIKRAM AGGARWAL)
JUDGE

January 23, 2025

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No