

2025:PHHC:088255



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

207

CR-6973-2024 (O&M)

Date of Decision : 18.07.2025

HARJIT SINGH

.... Petitioner

VERSUS

BACHITTER SINGH AND ANR

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Nippun Sharma, Advocate for the petitioner.

None for the respondents despite service.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned orders dated 24.07.2024 and 19.09.2024, both passed by the learned Civil Judge (Junior Division), Jalandhar.
2. Brief facts relevant to the present *lis* are that plaintiff-respondent No.1 herein had filed a suit for specific performance by way of possession on the basis of the agreement to sell dated 08.12.2015. In the said suit the present petitioner had been impleaded as defendant No.2. Vide order dated 24.07.2024 the evidence of defendant No.2-petitioner herein was closed as despite availing numerous opportunities the evidence was not led. Subsequently, an application was filed by defendant No.2-petitioner for recalling the order dated 24.07.2024. Inadvertently, in the impugned order dated 19.09.2024 it has been stated that the application was filed on behalf of

defendant No.1 herein, however, defendant No.1-respondent No.2 herein was proceeded against *ex parte* and even in the impugned order the same is reflected. The said application was dismissed holding that defendant No.2-petitioner herein had already availed 10 effective opportunities including the last and final opportunity and had failed to conclude his evidence. Hence, the present Revision petition.

3. The learned counsel defendant No.2-petitioner would contend that defendant No.2-petitioner is the only contesting defendant and defendant No.1-respondent No.2 herein has already been proceeded against *ex parte* and in case defendant No.2-petitioner is not permitted to lead his evidence, grave injustice would be caused to him. Learned counsel has further pointed out that, inadvertently, on 10.12.2024 when notice of motion was issued, it was stated by learned counsel for defendant No.2-petitioner that only cross-examination of defendant No.2-petitioner remains. Learned counsel, however, states that defendant No.2-petitioner is yet to file his affidavit in examination-in-chief. Learned counsel has further pointed out that in the order dated 10.12.2024 passed by this Court, inadvertently, the defendant No.2-petitioner herein is referred to as defendant No.1, however, the petitioner herein is defendant No.2.

4. On 06.02.2025 the case was adjourned to 25.04.2025 as none had appeared on behalf of the respondents. Even on 25.04.2025 none had put in appearance on behalf of the respondents and case was adjourned to today. Today also none has put in appearance on behalf of the respondents. The respondents are, therefore, proceeded against *ex parte*.

5. Heard.

6. In the present case the suit is for specific performance and defendant No.1-respondent No.2 herein has already been proceeded against *ex parte*. The suit is only being contested by defendant No.2-petitioner herein and in case he is not permitted to lead his evidence, grave injustice would be occasioned to him.

7. No doubt defendant No.2-petitioner herein has been remiss in not leading his evidence despite numerous opportunities, however, keeping in view the totality of circumstances and in order to do complete justice between the parties, one effective opportunity is granted to defendant No.2-petitioner to file his affidavit in examination-in-chief and also to present himself for cross-examination subject to payment of ₹30,000 (rupees thirty thousand) as costs to be paid to plaintiff-respondent No.1. The payment of costs shall be a condition precedent.

8. The present revision petition stands disposed off accordingly. Pending applications, if any, also stand disposed off.

18.07.2025
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No