



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

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CR No.2084-2019 (O&M)
Date of Decision: 05.05.2025

Daljit Singh (since deceased) through LR

...Petitioner

V/s

Ram Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: None for the petitioner.

Mr. Sumeet Puri, Advocate for respondent No.1.

VIKRAM AGGARWAL, J (ORAL)

The present revision petition is directed against the order dated 20.02.2019 passed by the Court of learned Civil Judge (Jr. Divn.), Patiala, vide which the evidence of defendant No.1-petitioner was closed by order.

2. A suit for declaration to the effect that sale deed No.867 dated 13.04.2011 executed by defendant No.1-petitioner in favour of defendant No.2 regarding land measuring 9 kanal 17 marla situated in Village Sanaur, Tehsil and District Patiala (fully described in the plaint) (hereinafter referred to as the "suit land") was illegal, null and void and not binding on the rights of the plaintiff-respondent No.1 was filed by the plaintiff. A prayer for specific performance of contract dated 08.03.2011 between the plaintiff and defendant No.1 regarding the sale of 8 kanals of land situated in Village Sanaur, Tehsil and District Patiala was also made. Consequential relief of mandatory injunction was also sought.

3. Interlocutory orders passed by the trial Court referred to in the petition have been perused. It is contended in the petition that the delay was unintentional and *bona fide* and that the trial Court took a hyper technical



view and closed the evidence of the petitioner-defendant No.1 by order. It has been averred in the petition that one opportunity be granted to the petitioner to lead and conclude his evidence.

4. Learned counsel for respondent No.1 submits that sufficient opportunities were availed by the petitioner for leading evidence.

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

6. Admittedly, petitioner was granted 15 effective opportunities and failed to conclude his evidence and eventually vide order dated 20.02.2019, his evidence was closed by order. A perusal of the interlocutory orders shows that on 30.07.2018, DW1 (Daljit Singh, who is father of the petitioner) died and the petitioner moved an application for impleadment as his LRs and the said application was allowed vide order dated 12.10.2018. Thereafter, the matter remained pending for evidence of DW-2 (Gurvinder Singh). The petitioner filed his affidavit on 17.01.2019 and was also present on 25.01.2019 and was partly examined on 31.01.2019. It is pleaded by the petitioner that he was unwell due to which he could not attend the Court on 20.02.2019. Medical certificate dated 17.02.2019 has been annexed with the petition as Annexure P-1. No doubt, sufficient opportunities were granted to the petitioner to lead and conclude his evidence. The petitioner, however, seeks only one effective opportunity to lead and conclude his evidence. In the considered opinion of this Court, such opportunity should be granted, for, 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 petitioner-plaintiff to lead and conclude his evidence.



7. Accordingly, the revision petition is allowed and the impugned order dated 20.02.2019 passed by the Court of learned Civil Judge (Jr. Divn.), Patiala, vide which the evidence of the petitioner was closed, is set aside. The trial Court is directed to grant one effective opportunity to the petitioner to lead and conclude his evidence on a date to be fixed by it. This shall however, be subject to payment of costs of Rs.15,000/-, which shall be paid to the respondent No.1-plaintiff.

(VIKRAM AGGARWAL)
JUDGE

May 05, 2025

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No