

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR No.1304 of 2012.
Decided on:-February 13, 2015.

Smt. Sneh Lata.

.....Petitioner.

Versus

Sandeep Kumar Jindal and others

.....Respondents.

CORAM: *HON'BLE MR. JUSTICE DR. BHARAT BHUSHAN PARSOON.*

Argued by:- Mr. Jatinder Singla, Advocate
for the petitioner.

Mr. A.S. Virk, Advocate
for respondent No.1.

Dr. Bharat Bhushan Parsoon, J.

A suit for specific performance of agreement dated 14.5.2005 entered between the plaintiff, respondent herein, and Raj Kumar (since deceased) and represented by his daughter Smt. Sneh Lata, petitioner herein, as his legal representative, is pending adjudication before Additional Civil Judge (Senior Division), Sangrur.

2. During the course of leading of evidence by the plaintiff, respondent herein, he was being cross-examined as PW4 by the defendants. During such cross-examination, it came to the notice of the lower court that document exhibited in his examination-in-chief regarding which cross-examination of the plaintiff was being effected by the defendants, was

incomplete. As the plaintiff had not exhibited the complete document in examination-in-chief, further cross-examination of the plaintiff could not proceed. Though request was made by the plaintiff to produce complete document on record but such request was declined by the court holding that the plaintiff cannot produce the document during his cross-examination. However, permission of re-examination of the witness was granted. On re-examination, complete document was produced and remaining cross-examination was deferred for 23.1.2012.

3. This order of the lower court vide which re-examination of plaintiff Sandeep Kumar as his own witness was allowed in the circumstances discussed above, is under challenge in this revision petition, wherein it is claimed that earlier to completion of cross-examination of the witness, re-examination could not have been permitted and thus, order of the lower court has caused great prejudice to the defendants.

4. Counsel for the respondent-plaintiff, on the other hand, has urged that since no stay of further proceedings was granted by this Court, during further proceedings of the suit, cross-examination of plaintiff Sandeep Kumar as his own witness has already been completed by the defendants and after conclusion of evidence of the plaintiff, the defendants have also led their substantial evidence and the suit is at the fag end now. This position on facts has not been questioned by counsel for the petitioner-defendant.

5. There is no strict law that re-examination can be allowed only after completion of cross-examination. If in the midst of cross-examination, the court comes to the conclusion that some new point has emerged and some document though exhibited in examination-in-chief is incomplete or has been left out inadvertently either by the witness himself or due to lapse

by the court itself, re-examination can follow even in the midst of cross-examination of a witness.

6. The test simpliciter is as to whether the procedure adopted by the lower court has served the interest of justice. If in the wisdom of the court, a case for re-examination is made out and the court to sub-serve the interest of justice allows such re-examination even in the midst of cross-examination as was done by the lower court in the present case, because the document produced by the plaintiff in examination-in-chief on which the cross-examination was being effected by the defendant, had not been put in evidence as a complete document but only few pages thereof leaving others had been put as a document marking exhibit thereon, the court had rightly felt that further cross-examination by the defendant qua the said document could not be effected on the witness since the document itself was incomplete. The plaintiff himself had offered to produce the complete document which inadvertently had been put in evidence when the same was not complete. Allowing of re-examination is permissible in law and the lower court exercised its judicial power properly and competently.

7. Viewed from another angle, during the pendency of the present petition, not only cross-examination of Sandeep Kumar (PW4) has been completed by the petitioner-defendant but even entire evidence has been concluded by the plaintiff and the defendant has also produced substantial evidence before the lower court and the suit is at the final stage. In these circumstances, merely because re-examination was allowed by the court when cross-examination had not been completed, ipso facto is neither illegal nor irregular because circumstances had turned such that there was no option with the court but to allow re-examination of the witness to get the complete document on record which document though had already been exhibited in examination-in-chief of the plaintiff but all the leaves of said document were

not put together due to inadvertence.

8. Even viewed from the point of view of the petitioner-defendant, since no prejudice is shown to have been caused to her and jurisdiction has rightly been exercised by the lower court in permitting re-examination, no ground to interfere with the impugned order is made out.

9. Sequelly, affirming the impugned order dated 23.1.2012 of the lower court, this revision petition, being devoid of any merit, is dismissed.

February 13, 2015
'Yag Dutt'

(Dr. Bharat Bhushan Parsoon)
Judge

1. Whether Reporters of local papers may be allowed to see the judgment? Yes
2. Whether to be referred to the Reporters or not? Yes
3. Whether the judgment should be reported in the Digest? Yes