

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

CR No. 2145 of 2015 (O&M)
Date of decision: April 1, 2015

Baldev Krishan

...Petitioner

Versus

Siri Ram and others

...Respondent

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

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

Present: Mr. Vivek Singla, Advocate,
for the petitioner.

K. KANNAN, J. (Oral)

1. The defendant who brought two witnesses to prove the Will, namely, the witness and the scribe had made available to the court, the chief examination through an affidavit and in the cross-examination failed to support his own version in the chief examination. This, according to the defendant, gave him a power to treat him as hostile and the permission for cross-examination for his own witness must have been granted.

2. The attempt at the trial is always to get at truth. If a witness is brought by a person and he resiles from his statement even in the chief examination in reference of the statement made earlier, there is scope for treating him hostile. If his own assertion in the chief examination is dented in the cross-examination, there is no escape for the consequences of such version elicited in the cross-examination and a party who brings such a witness must take the consequences of his version. To allow for a cross-

examination to a party only because he has failed to support him in the cross-examination will mean that cross-examination must at all times be ineffective and secure no answer to the person on whose behalf is cross-examination done. We will take the sting out of a cross-examination process itself by such a process as adopted by the court for the petitioner. This court had an occasion to deal with the situation of when such permission could be granted in the decision in Civil Revision No. 2436 of 2014 titled Gram Panchayat Versus Shakuntala Devi decided on 13.3.2015.

I do not feel constraint to repeat the reasons brought in the said judgment. The learned counsel refers to me a decision of the Allahabad High Court in Vidha Shanker Vishwakarma Versus Ram Nath Gupta 2013 (2) CivCC 98 to say that such a procedure could be adopted. The judgment in Vidha Shanker Vishwakarma's case does not actually support what the counsel argues for. A witness who does not support his own version brought in the chief-examination will be permitted to be treated as hostile before cross-examination commences from the adversary. Adverse answers in the cross-examination cannot be a ground for the person who brought the person to treat as a hostile as wrongly understood. I will drive no strength through this decision. I decline to make any intervention with the order passed.

3. The revision petition is dismissed.

April 1, 2015
prem

(K.KANNAN)
JUDGE