

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

CR No.546 of 2015

Decided on: March 17, 2015.

Yashpal

.... Petitioner

Versus

Virender Singh and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Jasbir Mor, Advocate,
for the petitioner.

Mr. Vikas Sharma, Advocate,
for respondent No.1.

Mr. A.R. Sidhu, Sr. Advocate with
Mr. Harender Singh, Advocate for
Pawan Kumar, Oath Commissioner, Jind.

M.M.S. BEDI, J (ORAL)

Respondent No.2 is unserved. He being proforma respondent,
his service is dispensed with for motion hearing.

Explanation has been furnished by Mr. Pawan Kumar,
Advocate, Oath Commissioner, Jind and the same is taken on record.

This is defendant's revision petition against the order dated
06.01.2015 by virtue of which the trial Court has allowed the plaintiff-
respondent No.1 to put his signatures on an affidavit, which was tendered in
evidence under Order 18 Rule 4 CPC, when it was unsigned.

During cross-examination, it transpired that the affidavit
though attested by the Oath Commissioner, it did not bear the signatures of
the plaintiff-respondent No.1. An application for putting signatures on the
affidavit tendered in examination-in-chief was allowed vide impugned order
dated 06.01.2015. Aggrieved by the said order, the defendant No.2 has

approached this Court.

A notice was issued to the Oath Commissioner concerned to explain his conduct. The Oath Commissioner has submitted his explanation that he had attested the affidavit inadvertently in view of the identification by the counsel for the deponent as he was upset on account of his wife's labour pain. He has furnished an explanation which is, on the face of it, not satisfactory as neither date of birth nor any proof of delivery or wife being on family way has been placed on record.

I have carefully gone through the impugned order. An affidavit once filed cannot be permitted to be tampered with after the attestation by the Oath Commissioner. The affidavit which has been permitted to be signed during cross-examination as an act of just without sanction of any law. The revision petition is disposed of. The impugned order dated 06.01.2015 is hereby set aside. The trial Court is directed to permit the plaintiff-respondent No.1 to furnish fresh affidavit as per provisions of Order 18 Rule 4 CPC and proceed with the case in accordance with law. A costs of Rs.10,000/- will be payable to the defendant-petitioner for the unnecessary harassment caused, by the respondent No.1-plaintiff.

Let a fresh affidavit explaining the conduct be filed by Mr. Pawan Kumar, Advocate Oath Commissioner, by 01.04.2015. File be put up on 01.04.2015 for further orders on the explanation of the Oath Commissioner.

(M.M.S. BEDI)
JUDGE

March 17, 2015
harsha