

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

CR No. 6218 of 2015
Date of Decision:23.09.2015

Amar Nath and others

.....Petitioners

Versus

Sahil @ Tinku and another

...Respondent

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR

Present: Mr. Rakesh Nagpal, Advocate
for the petitioners.

SNEH PRASHAR, J. (Oral)

This civil revision petition under Article 227 of the Constitution of India is for quashing of order dated 09.09.2015, whereby the application filed by respondent No.1 for additional evidence in civil case No. 72-C of 2011/2014 titled Sahil Vs. Amar Nath and etc. was allowed by learned Additional Civil Judge (Senior Division), Sirsa.

The relevant facts which need elaboration are as under:

A suit for declaration with consequential relief of permanent injunction was filed by respondent No.1 against the petitioners. As alleged in the application for additional evidence filed by respondent No.1, during pendency of the suit a compromise had taken place between the parties which was reduced into writing on 06.07.2015. In the said compromise, Amar Nath-defendant No.1(petitioner No.1 in the present petition) had admitted execution of the Will in question by his wife Smt. Asha Rani, whereas during his deposition he denied the same. Accordingly, for proving the compromise stating it to be a subsequent event and alleging that the truth

seeking permission to further cross examine petitioner No.1-Amar Nath. Permission was also sought to re-examine witness-Amit Gupta being an attesting witness to the compromise.

Prayer in the application was opposed by the petitioners-defendants. They submitted that the alleged compromise was a forged and fabricated document and that their signatures were obtained on blank papers which were later on converted into a compromise.

Considering the submission made on behalf of the parties, learned trial Court partly accepted the application of respondent No.1 to the extent that summoning of DW-Amit Gupta for further examination was allowed. But as far as the prayer for further cross-examination of petitioner No.1-Amar Nath, was concerned that was declined.

Feeling unsatisfied the petitioners have preferred the instant civil revision.

Heard the submissions made by Mr. Rakesh Nagpal, Advocate representing the petitioners and perused the record.

As is apparent from the aforesaid facts, respondent No.1-plaintiff filed an application seeking permission to produce additional evidence on the ground that during pendency of the suit i.e. on 06.07.2015, an amicable settlement had taken place between the parties which had been reduced into writing. He made prayer for further cross examination of petitioner No.1-Amar Nath and for summoning DW-Amit Gupta for further examination in order to prove the compromise dated 06.07.2015. Perusal of the orders of learned trial Court, reproduced in the petition by the petitioners, show that the examination in chief of petitioner No.1(DW1) was recorded on 25.05.2015. The cross-examination was deferred and the case

was adjourned to 06.07.2015. However, on 06.07.2015, 10.07.2015, 17.07.2015 and 29.07.2015, cross-examination of DW-Amar Nath could not be recorded. In the order dated 17.07.2015, it was mentioned that counsel for the plaintiff has submitted that there are chances of compromise. On 29.07.2015 the defendants-petitioners were burdened with costs of Rs.500/- to be deposited with DLSA for seeking adjournment for their evidence. Last opportunity was granted to them and the case was adjourned 05.08.2015. It was on the said date i.e. 05.08.2015 that cross-examination of DW-Amar Nath was recorded.

Since cross-examination of DW-Amar Nath was recorded after the alleged compromise dated 06.07.2015 had come into existence, learned trial court rightly declined to recall him for further cross-examination. As far as the other witness Amit Gupta is concerned, respondent No.1 sought to summon him for proving the compromise dated 06.07.2015 as he had signed on the same as an attesting witness. Needless to say that when it is a question of proving on record a subsequent event that too a written compromise between the parties alleged to have taken place during pendency of suit, there appears no illegality or perversity in the order of trial Court allowing production of additional evidence. It is for proving the compromise that respondent No.1 had sought summoning of DW-Amit Gupta being an attesting witness to the compromise.

Thus, finding no ground for interference in the order of learned trial Court this revision petition is dismissed.

September 23, 2015
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(SNEH PRASHAR)
JUDGE