

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

CR-7090-2015 (O&M)

Date of decision: 19.11.2015

Anwar Jahan

...Petitioner

Versus

Mehmooda Khanam and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.AP Kaushal, Advocate for
Mr.Navjot Singh, Advocate for the petitioner

SNEH PRASHAR, J.

The instant revision petition under Article 227 of the Constitution of India has been filed for setting aside the order dated 10.09.2015 passed by learned Civil Judge, Junior Division, Malerkotla vide which the application filed by the petitioner for recalling PW-1 Tahir Ali Khan for further cross-examination was dismissed.

The respondents-plaintiffs No.1 to 5 filed a suit for declaration and permanent injunction against the petitioner/defendant and respondents No. 6 to 20. The petitioner filed written statement and thereafter issues were framed. Plaintiffs adduced evidence and the case is now at the stage of defendant's evidence.

The submissions made by learned counsel for the

petitioner have been heard.

Learned counsel for the petitioner submits that due to inadvertent omission and over sight on part of the previous counsel of the petitioner, some material questions qua the power of attorney allegedly executed by the plaintiffs-respondents in favour of PW1 Tahir Ali Khan could not be put. He further submits that in the interest of justice, one last opportunity be granted to the petitioner to further cross-examine PW1 Tahir Ali Khan.

It is apparent from the pleadings of the petitioner himself that PW1 Tahir Ali Khan was put to cross-examination by counsel for the petitioner on 01.07.2015. On that day he could not conclude the cross-examination and the same was deferred for 3.8.2015. On that date again, the witness was partly examined by counsel for the petitioner/defendant and the case was again adjourned to 5.8.2015 for further cross-examination. On 5.8.2015, PW1 was cross-examined at length and it was concluded. The case pertains to the year 2009 and is still at the stage of defendants' evidence. It appears that just to linger on the proceedings, the petitioner-defendant had filed the application for recalling PW1 for further cross-examination. The trial Court granted sufficient opportunity to the petitioner to cross-examine the witness. Having cross-examined the witness on three dates before closing the same

there appears no justification in the plea of the petitioner that certain material questions could not be put to the witness. Otherwise also learned trial Court has observed in his order that questions relating to the alleged power of attorney have already been put to the witness.

In any case, there can be no end to the litigation if such kind of applications are allowed in the set of facts discussed above.

Thus, there being no illegality or perversity in the impugned order warranting intervention, the present petition being devoid of merit is dismissed in limine.

19.11.2015
gsv

(SNEH PRASHAR)
JUDGE