

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

**CR No.8199 of 2015
Date of decision: 04.12.2015**

Jaipal Goyal

....Petitioner

Versus

Manmohan Singh

....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Deepak Sabherwal, Advocate
for the petitioner.

RITU BAHRI J. (Oral)

The petitioner has come up in revision for setting-aside the order dated 28.09.2015 (Annexure P-6), passed by the Civil Judge (Jr. Division), Kapurthala, vide which the application under Section 151 CPC for re-calling the witness, namely, Sukhwinder Singh for the purpose of cross-examination has been dismissed.

A perusal of the impugned order shows that the plaintiff's evidence was closed on 17.09.2015. However, on 07.09.2015, the witness of plaintiff i.e. PW-4, namely, Harjit Singh Walia, was present and cross-examined. The plaintiff has tendered the examination-in-chief of PW-Sukhwinder Singh son of Jagir Singh on 12.10.2012 and on 07.09.2015, this witness was not present for his cross-examination. The application under

Section 151 CPC has been dismissed on two grounds. Firstly, that this application was not maintainable and secondly, that this witness had not been cross-examined approximately for 03 years.

Reference, at this stage, can be made to the judgment passed by Co-ordinate Bench of this Court in “Santosh Kumar Berry vs Nirmala Devi and others” decided in Civil Revision No.5639 of 2012 on 25.09.2012, whereby it has been observed that the trial Court can exercise its powers under Section 151 CPC to re-call the witnesses for the purpose of further examination, if the evidence of any of the party has been closed.

So far as recording of cross-examination is concerned on 07.09.2015, the last witness of plaintiff ie. PW-4, had been cross-examined. The witness, namely, Sukhwinder Singh was not present and being an attesting witness to the agreement his cross-examination is essential.

So, keeping in view the above facts and circumstances, the present revision petition is allowed and the order dated 28.09.2015, passed by the Civil Judge (Jr. Division), Kapurthala, is hereby set-aside and one effective opportunity is being granted to the petitioner/plaintiff to conclude his evidence, subject to payment of cost of Rs.5,000/- to be paid to the opposite party.

(RITU BAHRI)
JUDGE

04.12.2015

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