

214 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-1750 OF 2014 (O&M)
Date of Decision: 31.03.2016

MUNNI DEVI AND OTHERS

.....Petitioners

Vs.

AMRIT LAL

...Respondent

CORAM: HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. J.S. Hooda, Advocate
for the petitioners.

Mr. Sanjay Vij, Advocate
for the respondent.

DARSHAN SINGH, J. (Oral)

The present revision petition has been preferred by the petitioners-defendants against the order dated 16.01.2014 whereby, the application moved by the petitioners for recalling PW-1 and PW-2 for further cross-examination has been dismissed.

2. Learned counsel for the petitioners contended that respondent-Amrit Lal has filed the suit for possession by way of specific performance of the agreement to sell dated 18.12.2004. He contended that the plaintiff-respondent has filed the suit by suppressing the material facts. After framing of issues, PW-1 and PW-2 were examined by the plaintiff then, the plaint was amended. The petitioners also filed the amended written statement. The respondent-plaintiff was allowed to file the replication to the said amended written statement. He contended that due to amendment of pleadings, new facts have come on record, so, the recalling of PW-1 and PW-2 was

essential for the just decision of the case.

3. On the other hand, learned counsel for the respondent contended that the contentions advanced by learned counsel for the petitioners are totally beyond the purview of the application moved by the petitioners on the basis of which the impugned order has been passed. He contended that the PW-1 and PW-2 were duly cross-examined by counsel for the petitioners. So, no case was made out to recall PW-1 and PW-2 for further cross-examination and the application has been rightly dismissed.

4. I have duly considered the aforesaid contentions. The petitioners have moved the application dated 11.12.2013 for recalling PW-1 and PW-2 for cross-examination. In the application, it has been mentioned that some vital questions on the aspect of alterations in the original agreement could not be put to PW-1 and PW-2 due to inadvertence and ignorance of the applicants. It is further contended that the petitioners had engaged Sh. R.S. Chauhan, Advocate who was not feeling well at the time of the cross-examination and he took the aid of a junior Advocate Sh. Vikas Sorot. Thus, it has been pleaded that further cross-examination of these witnesses is essential for complete justice and fairness of the trial.

5. In order to test the validity of the impugned order, we are to take into consideration the pleas raised in the application on the basis of which the recalling of the witnesses has been sought. All the contentions raised by the learned counsel for the petitioners are totally beyond the scope of the application moved by the petitioners for recalling PW-1 and PW-2 before the learned trial Court. The only plea mentioned in the application moved before the learned trial Court to recall PW-1 and PW-2 was that certain vital questions could not be put to them with respect to the

alterations in the agreement to sell. The application is totally silent as to what was the said alterations and what vital questions could not be put to these witnesses. So, the application on that aspect is quite vague.

6. The impugned order shows that PW-1 and PW-2 were cross-examined at length on 12.01.2008 by Sh.Vikas Sorot and Sh. R.S. Chauhan, Advocates. Both the parties have already closed their evidence and the case was fixed for rebuttal evidence and arguments when this application was moved. So, the petitioners have not been able to make out any case for recalling PW-1 and PW-2 for further cross-examination.

7. Consequently, I did not find any illegality in the impugned order dated 16.01.2014. So, the present revision petition, being devoid of merits, is hereby dismissed.

March 31, 2016

SwarnjitS

(DARSHAN SINGH)
JUDGE