

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

**Civil Revision No.2503 of 2016
Date of decision : 16.05.2016**

Kaur Singh

.....Petitioner

Versus

Hakam Singh

...Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

- 1. Whether Reporters of the local papers may be allowed to see the judgment ? Yes*
- 2. To be referred to the Reporters or not ? Yes*
- 3. Whether the judgment should be reported in the Digest? Yes*

Present: Mr. Vivek Goel, Advocate for petitioner.

Mr. Surinder Garg, Advocate for respondent.

DARSHAN SINGH, J.

The present revision petition has been preferred by the petitioner-defendant against the order dated 21.03.2016 passed by learned Additional Civil Judge (Senior Division), Jaitu, Distt. Faridkot, vide which the application moved by him for additional evidence has been dismissed.

2. Learned counsel for the petitioner contended that the petitioner wants to examine Darshan Singh, the attesting witness of the pronote and receipt dated 29.02.2012 on the basis of which the suit for recovery has been filed by the respondent-plaintiff. He contended that statement of Darshan Singh is very essential for the just decision of the case

as he has been shown to be the marginal witness of the said pronote and receipt.

3. On the other hand, learned counsel for the respondent-plaintiff contended that the petitioner-defendant has already closed his evidence. No reason has been mentioned in the application as to why this witness could not be produced earlier. He contended that this application has been moved only to fill up the lacuna in his case by the petitioner-defendant. Thus, the application has been rightly dismissed.

4. I have duly considered the aforesaid contentions.

5. The petitioner has moved the application for additional evidence seeking permission to examine Darshan Singh who has been shown as marginal witness of the alleged pronote and receipt dated 29.02.2012 on the basis of which the respondent-plaintiff has filed the suit for recovery against the petitioner-defendant. This fact is not disputed that the said witness has been given up as having been won over by the respondent-plaintiff on 06.05.2015. Thereafter, the petitioner-defendant led his evidence and the evidence of the petitioner-defendant was voluntarily closed after obtaining many opportunities. Annexure P-2 is the copy of the application moved by the petitioner-defendant for leading the additional evidence. In the application no reason has been given as to why Darshan Singh could not be examined earlier by the petitioner at the time of his evidence. It is not the fact that this evidence was not earlier in the knowledge of the petitioner-defendant. Said Darshan Singh has been shown as marginal witness on the pronote and

receipt dated 29.02.2012. The said pronote and receipt were already brought on record. He was also given up as having been won over by the respondent-plaintiff on 06.05.2015. After that the petitioner-defendant concluded his evidence after availing various opportunities. Thereafter, this application was moved on 17.02.2016. It is nowhere mentioned in this application as to why this witness could not be examined earlier despite exercise of due diligence. So, it appears that the present application has only been filed to fill up the lacuna in its case by the petitioner-defendant.

6. Consequently, I do not find any illegality in the impugned order passed by the learned trial court calling for any interference by this Court.

7. Resultantly, the present revision petition has no merits and the same is hereby dismissed.

16.05.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**