

Civil Revision No.5184 of 2016

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In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No.5184 of 2016

Date of Decision:12.8.2016

Dharampal

---Petitioner

vs.

Phool Kumar and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr.Arun Yadav, Advocate
for the petitioner**

Rekha Mittal, J.

The present petition has been directed against order dated 12.7.2016 (Annexure P-7) passed by the Additional Civil Judge (Senior Division), Jhajjar whereby application filed by defendant No. 6 for re-examination of DW-2 and DW-3 has been dismissed.

Counsel for the petitioner has submitted that defendant No. 6 appeared in the witness box as DW-2 and examined Sh.Vijender son of

Sher Singh as DW-3. In cross examination, the witnesses being semi literate and having rural background could not understand the term 'vadi' in Hindi and for that reason stated that 'vadi' is in possession of the property when otherwise they wanted to state that property in dispute is in possession of the defendants. The error committed by them came to their notice later, therefore, DW-2 and DW-3 are required to be re-examined for the purpose of necessary clarification.

I have heard counsel for the petitioner, perused the paper book, the application for re-examination of the witnesses and the impugned order but find that the petition is devoid of merit and deserves to be dismissed at the threshold.

Order 18 Rule 17 of the Code of Civil Procedure (in short “CPC”) provides for recalling and examination of witness. Rule 17, germane to the controversy, reads as follows:-

"Court may recall and examine witness:- The Court may at any stage of a suit recall any witness who has been examined and may (subject to the law of evidence for the time being in force) put such questions to him as

the Court thinks fit."

Counsel for the petitioner has failed to point out any provision in the CPC that provides for re-examination of a witness in the circumstances as has been sought to be pleaded by the petitioner. On the contrary, if such a practice is allowed to be followed, the very purpose of cross examination of a witness would be frustrated and there would not be any end to litigation.

For the foregoing reasons, the petition fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

12.8.2016
paramjit

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No