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

**Civil Revision No.1382 of 2017
Date of Decision: 11.08.2017**

Rakesh Kumar Yadav

.....Petitioner

Vs

Krishan Kumar and others

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. J.P. Jangu, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.

[1]. Petitioner/proforma defendant No.4 has assailed the order dated 10.01.2017 passed by the Civil Judge (Jr. Divn.), Rewari vide which opportunity was not granted to the petitioner to cross-examine defendant No.1 (DW-11).

[2]. Plaintiff filed a suit for permanent injunction in which petitioner was impleaded as defendant No.4. Defendant No.1 and proforma defendant No.4 (petitioner) were having conflicting interest. They filed different written statements. Petitioner was impleaded as proforma defendant No.4. Petitioner admitted the case of the plaintiff, but claimed himself to be a contesting party viz.-a-viz. the claim of defendant No.1.

[3]. Defendant Nos.1 to 3 have not filed any counter claim or cross suit in any manner, nor any interpleader suit has come to fore in which claims of defendant Nos.1 to 4 could be decided. The petitioner in the capacity of proforma defendant No.4 on the one hand admitted the claim of petitioner, but still persisted to deny the pleadings of defendant No.1 and wanted to contest against defendant No.1, which in my considered opinion cannot be entertained.

[4]. Defendant No.4/petitioner sought to cross-examine defendant No.1, who has appeared as DW-11. What would be the ultimate goal for such a cross-examination, would remain a far fetched phenomenon in view of the fact that defendant No.1 has already deposed in his affidavit that he is in exclusive possession of the suit property. Defendant No.4 could have led his independent evidence. In the suit filed by the plaintiff, no such relief can be granted to defendant No.1 as well as in favour of defendant No.4 in the absence of any cross suit or counter claim filed by both the defendants.

[5]. Earlier also a Civil Revision No.943 of 2017 was filed against the order dated 28.10.2016 passed by the trial Court wherein similar prayer for recalling of similar witness (DW-7) for further cross-examination was rejected.

[6]. The *inter se* controversy between defendant No.1 and defendant No.4 could have been appreciated in some other case. At the most, the suit filed by the plaintiff would be decreed or dismissed against the existing parties. In my considered opinion, the cross-examination of defendant No.1(DW-11) as sought by proforma defendant No.4/petitioner would be of no consequence and cannot be allowed to fill any possible lacuna in the case of the plaintiff.

[7]. Taking into consideration the totality of facts and circumstances, I do not find any error of jurisdiction in the impugned order passed by the trial Court. This revision petition is accordingly dismissed.

August 11, 2017

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No