

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

CR-1663-2017 (O&M)

Date of decision:8.3.2017

Gurukul Indraprastha Managing Committee

...Petitioner

Versus

M/s Indopol Food Processing Machinery Pvt. Ltd. and ors.

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.RS Randhawa, Advocate for the petitioner

SNEH PRASHAR, J.

The instant civil revision petition under Article 227 of the Constitution of India has been filed assailing the order dated 20.2.2017 (Annexure P7) passed by learned Civil Judge (Junior Division), Faridabad by virtue of which the application filed by the petitioner (defendant No.4 in the civil suit) for recalling PW1 Mukesh Kumar Sharma (plaintiff) for re-cross examination, was dismissed.

Learned counsel for the petitioner submits that no adequate opportunity was given to the petitioner to cross-examine plaintiff Mukesh Kumar Sharma, who appeared as PW1, Manager of the Company through whom respondent No.1- M/s Indopol Food Processing Machinery Private Limited had filed the suit. The pleas raised by defendant No.4- petitioner in his written statement were distinct from the pleas raised by other defendants namely Vinod Kumar Arya and Jagdish

Kumar Arya (defendants No.2 and 3). However, none of the pleas of the petitioner were put to the witness. It was only on change of counsel that the petitioner learnt about the said facts and therefore filed an application seeking re-cross examination of the witness (PW1).

There appears no merit in the submission of learned counsel for the petitioner. Photocopy of the cross-examination of PW1 Mukesh Kumar Sharma, Manager of the plaintiff- company has been annexed as Annexure P3 with the instant petition. Perusal of the same shows that the witness was subjected to lengthy cross-examination by the defendants (including the petitioner). The counsel representing the petitioner (defendant No.4) alongwith counsel representing defendants No.2 and 3 availed due opportunity to cross-examine the witness. The name of the counsel, who represented the petitioner at the time of cross-examination was specifically mentioned in the statement before starting the cross-examination. Merely because the petitioner has changed the counsel, the witness cannot be recalled for fresh/ further cross-examination. In case such kind of practice is allowed, there will no end to the litigation.

In the above premise, the present petition being devoid of merit is dismissed.

8.3.2017
gsv

(SNEH PRASHAR)
JUDGE

Whether speaking / reasoned?
Whether reportable?

Yes / No
Yes / No