

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.1690 of 2017
Date of decision: 08.03.2017

Rupinder Kaur

... Petitioner

Vs.

Balwinder Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Nitish Garg, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (ORAL)

Instant revision petition, filed by the plaintiff under Article 227 of the Constitution of India, is directed against the order dated 01.02.2017 passed by the learned trial Court, whereby application moved by the defendants was allowed, permitting further cross-examination of DW3 Bahadur Singh.

Heard learned counsel for the petitioner.

It is a matter of record and not in dispute that Will dated 08.12.2003 is the bone of contention between the parties, in the present litigation. When the defendants' evidence was going on, DW3 Bahadur Singh appeared. This witness had admitted his signatures over the Will, but denied to have scribed the same. At this juncture, on the request made by learned counsel for defendant No.1, this witness was declared hostile and defendant No.1 was afforded an opportunity to cross-examine the witness. Thereafter, plaintiff was

also given opportunity to cross-examine this witness.

It was during cross-examination of DW3 that counsel for the plaintiff-petitioner, instead of confining the cross-examination upto the facts, which came during the examination-in-chief of this witness, also put questions about the Will, which has been propounded by the plaintiff, in order to prove due execution of Will. It deserves mention here that this witness was not produced by the plaintiff to prove the Will propounded by her, while leading her evidence in affirmative.

Under these circumstances, the learned trial Court was well within its jurisdiction to allow the application of defendant No.1 permitting him to further cross-examine the abovesaid witness DW3 Bahadur Singh, on the questions put to this witness on behalf of the plaintiff. Had this reasonable opportunity not been granted to defendant No.1, a serious prejudice would have been caused to him. Since the learned trial Court had rightly appreciated this peculiar fact situation obtaining on record of the case, no fault can be found with the impugned order and the same deserves to be upheld, for this reason also.

The abovesaid view taken by this Court also finds support from the following judgments of this Court: -

- 1. *Amar Singh Vs. Om Parkash and others, 2011 (51) RCR (Civil) 748.***
- 2. *Paramjit Kaur and another Vs. Sukhraj Kaur and others, 2014 (30) RCR (Civil) 129.***
- 3. *Gurmeet Singh Vs. S.M. Cold Warehouse Pvt. Ltd. and others, 2014 (57) RCR (Civil) 798.***

In the circumstances of the case, defendant-respondent was well justified in moving the application under Order 18 Rule 17 of the Code of Civil Procedure vide Annexure P-1. Plaintiff filed her reply to the application vide Annexure P-2. Detailed statement suffered by DW3 Bahadur Singh is available on record as Annexure P-3. A combined reading of all these documents as well as the impugned order shall make it crystal clear that the learned trial Court committed no error of law, while passing the impugned order. It is so said because the learned trial Court, while striking a balance between the parties, was trying to grant equal opportunities to both the parties to the litigation, thereby causing no prejudice to either of the parties. Since the approach adopted by the learned trial Court has been found factually correct and legally justified, the impugned order deserves to be upheld, for this reason as well.

It is the settled proposition of law that rules of procedure are meant for advancing the cause of justice. Every Court of competent jurisdiction must make an endeavour to grant reasonable opportunity to both the parties to the litigation, to put up their best case before the Court. No party to the litigation should be forced to go home with the grievance that it was not granted reasonable opportunity to put up its case. Further, while doing complete and substantial justice between the parties, technicalities must not weigh with the Court. Ultimately, justice must not be made to suffer, at any cost. Having said that, this Court feels no hesitation to conclude that since the impugned order has not been found suffering from any illegality, the same deserves to be upheld.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered

view that since no illegality has been found in the impugned order passed by the learned trial Court, the same deserves to be upheld. The revision petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No ground for interference has been made out.

Resultantly, with the abovesaid observations made, instant revision petition stands dismissed, however, with no order as to costs.

08.03.2017
vishnu

[RAMESHWAR SINGH MALIK]
JUDGE

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