

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.2486 of 2017
Date of decision: 06.04.2017

Balwant Singh @ Gola Singh

... Petitioner

Vs.

Balwant and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. S.K. Yadav, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (ORAL)

Present revision petition, at the hands of the plaintiff, filed under Article 227 of the Constitution of India, is directed against the order dated 27.03.2017 passed by the learned trial Court, whereby application of the petitioner, praying for not permitting the defendants to depose as their witnesses at this stage of the suit, was dismissed, allowing the defendants to appear as their own witnesses, after examining six DWs.

Heard learned counsel for the petitioner.

No doubt, the ideal situation, which should be adhered to and also followed by one and all, is the one provided under Order 18 Rule 3A of the Code of Civil Procedure ('CPC' for short). As and when any party to the litigation wishes to appear as his/her own witness, he/she should appear before any other witness is examined on behalf of that party, unless the Court, for the reasons to be recorded, permits such a party to appear as his/her own witness at a later stage.

So far as the peculiar fact situation of the present case is concerned, two defendants, who could not be examined earlier and are being sought to be examined now, after examining six DWs, are of 77 years and 66 years respectively, thus, both these defendants are senior citizens. Ideal situation provided under Order 18 Rule 3A CPC apart, ground realities of life cannot be ignored and must not be ignored by the learned Courts as well, particularly when interest of justice requires so to do.

Another equally important aspect of the matter is that if these two defendants are permitted to be examined at this stage, when their evidence is still going on, plaintiff-petitioner will not suffer any prejudice. Having said that, this Court feels no hesitation to conclude that the learned trial Court was well within its jurisdiction to pass the impugned order and the same deserves to be upheld.

In fact, to meet such a peculiar fact situation as obtaining in the present case, concept of social context judging is developing in our country as well. The central idea behind this concept is that the practical and ground realities of life cannot be ignored. The Courts of law also cannot be ignorant about the ground realities of life. It is also pertinent to note here that on more than one occasions, the Hon'ble Supreme Court has held that rules of procedure are meant for advancing the cause of justice. It is also the settled proposition of law that every party to the litigation must be granted due opportunity to put up its best case before the Court.

Nobody should be forced to go home with the grievance that sufficient opportunity was not granted by the Court. While proceeding on this principle of law, the learned Court would be achieving twin objects namely; (i)

it would avoid multiplicity of litigation between the parties, and (ii) it will enable the learned Court to do complete and substantial justice between the parties. Under these peculiar facts and circumstances of the case noticed hereinabove, it can be safely concluded that the learned trial Court committed no error of law, while passing the impugned order and the same deserves to be upheld, for this reason also.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. The impugned order has been found duly supported by sound reasons and the same deserves to be upheld, for this reason as well.

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 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, present revision petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

06.04.2017

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No