

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

CR No.3535 of 2016 (O&M).

Date of Decision: 19.01.2017.

Bhagwati Devi

....Petitioner.

VERSUS

Sandeep Sachdeva

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Anil Kumar Rana, Advocate for the petitioner.

SNEH PRASHAR, J.

CM-844-CII-2017

Certified copy of order dated 20.10.2016 (Annexure-P5) is taken on record and the application stands disposed of.

CR-3535-2016

Petitioner is aggrieved by the order dated 28.04.2016 passed by learned Civil Judge (Junior Division), Gurgaon dismissing her application for recalling witness PW6 Sagar Chand in order to get some documents proved.

The submissions made by Mr. Anil Kumar Rana, learned counsel for the petitioner have been considered.

Learned counsel for the petitioner contends that PW6 Sagar Chand was examined by the petitioner to identify the signatures of her late father Shugan Chand on the documents available on the files of two civil

suits which were summoned from the General Record Room of Deputy Commissioner. During examination of the witness, file of one decided civil suit was put to the witness and he identified signatures of father of the petitioner on the original site-plan etc. attached to the file and certified copies of the said documents were exhibited. However, certain documents on the other summoned file could not be put to the witness and those documents remained unproved. The particulars of the civil suit, the file of which was put to the witness as well as particulars of the civil suit, the file of which could not be put to the witness, were mentioned in the application and were reproduced in the impugned order by learned Civil Judge (Junior Division). Submitting that some important documentary evidence, which had been summoned for tendering in evidence, could not be proved despite due diligence and the application filed by the petitioner for recalling PW6 Sagar Chand was wrongly dismissed by learned trial Court, learned counsel prayed for one opportunity for re-examining PW6 Sagar Chand.

The reasons for declining the prayer of the petitioner for recalling PW6 Sagar Chand enumerated in the impugned order are as under:-

“After considering the contents of the application, its reply and contention advanced by the ld. Counsel for both sides, this court is of the considerate opinion that the application presented is vague one and applicant has not specified that for proving what documents, recalling of PW6 Sagar Chand has been sought. It is simply stated in the application that important evidence which was summoned could not be put before this witness. However, the applicant

has not specified the documents and its relevancy in the just and effective adjudication of the controversy involved in the present case. This court is in agreement with the contention of the ld. Counsel for the applicant that a witness may be recalled for evidence if some important documents could not be put before him due to inadvertent mistake but in this type of case, it is obligatory on part of the applicant to specify the documents and also explained its importance in deciding the case. Nothing has been done in this case by the applicant either in the application or at the time of arguments. Simply stating that documents (site plans) are very important for just decision of the case without specifying the documents and explaining their significance, cannot be ground for recalling of the witness PW6 Sagar Chand.”

Learned counsel for the petitioner could not demonstrate any misreading or misappreciation of the facts as noticed by learned trial Court. The petitioner may have summoned record of two civil suits for putting the documents available on those files to his witnesses, but in case some documents available on one of the file or both the files by inadvertence had not been put to the witness examined by him, she should have been in a position to name and give complete particulars of the said documents in her application filed for recalling the witness. Admittedly, the entire file of the civil suit was not to be put to the witness and only some specific documents were to be put to him. An application filed stating that certain documents (site-plans) were to be put to the witness was not sufficient for recalling/ re-

by the witness should have been stated for the Court to assess whether or not recalling of the witness could be allowed. A blanket permission could not be granted in the manner it was sought. Also, nothing was stated how the said documents were material and necessary for proper and complete adjudication of the case. The witness cannot be recalled just on the asking of a party as then there will be no end to the litigation.

Thus, finding no illegality or perversity in the order of learned trial Court and there being no merit in the petition, it is hereby dismissed.

(SNEH PRASHAR)
JUDGE

19.01.2017.
jitender sharma

Whether speaking/ reasoned : **Yes**

Whether Reportable : **No**