

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

244

CR-4497-2016

Date of Decision:12.07.2017

Nand Kumar Sood

.....Petitioner

Versus

Anoop Kumar and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK.

Present: Mr.Abhimanyu Kalsy, Advocate,
for Mr.A.K.Kalsy, Advocate,
for the petitioner.

Mr.Karan Garg, Advocate,
for respondent No.1.

RAMESHWAR SINGH MALIK, J.(Oral)

Feeling aggrieved against the impugned order dated 26.05.2016 (Annexure P-5) passed by learned trial Court, declining the application of the plaintiff to permit him to examine defendant No.2 as witness of the plaintiff, he has approached this Court by way of present revision petition, filed under Article 227 of the Constitution of India, for setting aside the impugned order.

Notice of motion was issued.

Heard learned counsel for the parties.

It has gone undisputed before this Court that it is the plaintiff-petitioner himself who has impleaded defendant No.2 as one of the contesting defendants. However, this aspect was sought to be clarified by the learned counsel for the petitioner that no relief is being sought by the

plaintiff against defendant No.2. It is also true that plaintiff did not seek deletion of name of defendant No.2 from the array of parties. Further, defendant No.2 has also filed contesting reply to the application filed by the plaintiff, whereby he was seeking permission of the learned trial Court to examine defendant No.2 as plaintiff witness. Having said that, this Court feels no hesitation to conclude that so far as impugned order passed by the learned trial Court is concerned, no fault can be found with it and the same deserves to be upheld.

During the course of hearing, learned counsel for defendant No.1-respondent has pointed out that name of defendant No.2 has been included in the list of witnesses of defendant No.1. He further submits that defendant No.1 is intending to examine defendant No.2 as DW2. In this view of the matter, during the examination of defendant No.2 as DW2, plaintiff shall be entitled to cross-examine him on any of the issues.

It goes without saying that the learned trial Court shall permit the plaintiff to cross-examine defendant No.2 as DW2. Relationship between the parties is also not in dispute. Defendant No.2 is common brother of plaintiff and defendant No.1. Cross-examination of defendant No.2 by the plaintiff would serve the purpose of the plaintiff-petitioner. So far as the impugned order is concerned, no patent illegality or perversity has been found in the impugned order.

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 opinion that since the impugned order has not been found suffering from patent illegality and perversity, the same deserves to be

upheld.

Resultantly, subject to abovesaid observations made in the foregoing paragraphs, present revision petition stands disposed of, however, with no order as to costs.

July 12, 2017
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(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No