

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.5907 of 2017 (O&M)

Date of decision: 01.09.2017

Inderjit Singh

... Petitioner

Vs.

Rajbir Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. S.S. Salar, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the order dated 03.08.2017 (Annexure P-7) passed by the learned trial Court, whereby Sh. Beerinder Singh was ordered to be examined by way of appointment of Local Commissioner, defendant has approached this Court by way of instant civil revision petition under Article 227 of the Constitution of India, for setting aside the impugned order.

Learned counsel for the petitioner submits that Sh. Beerinder Singh was not at all relevant witness to be examined by the plaintiff. Such a witness, who has nothing to do with the controversy involved between the parties, could not have been examined either by summoning him in person before the Court or even through appointment of Local Commissioner. He seeks setting aside the impugned order, by allowing the present revision petition.

Having heard learned counsel for the petitioner at considerable length and after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that keeping in view the totality of facts and circumstances of the case, no fault can be found with the impugned order passed by the learned trial Court and the same deserves to be upheld, whereas the present revision petition having been found without any merit, is liable to be dismissed, for the following more than one reasons.

A bare perusal of the impugned order passed by the learned trial Court would show that owing to the age of this witness namely Sh. Beerinder Singh, he was not to be summoned in the Court as witness of the plaintiff. On the other hand, placing reliance on a judgment of the Hon'ble Supreme Court, the learned trial Court ordered that the witness be examined by the Local Commissioner. Expenses of the Local Commissioner were to be met by the parties in equal proportion. So far as the relevance of this witness namely Sh. Beerinder Singh is concerned, it is to be decided not by this Court, but by the learned trial Court, who is seized of the matter. Having said that, this Court feels no hesitation to conclude that the learned trial Court did not exceed its jurisdiction, while passing the impugned order and the same deserves to be upheld.

Evidentiary value of the statement of this witness Sh. Beerinder Singh is yet to be appreciated by the learned trial Court. It goes without saying that the parties, including the petitioner, would be at liberty to raise objection available to them qua the evidentiary value of the statement given by any witness. However, that stage is yet to come. Further, no prejudice of any kind

whatsoever has been caused to the petitioner, by passing the impugned order. Under these undisputed facts and circumstances of the case, 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 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 passed by the learned trial Court has been found based on sound reasons and the same deserve 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 since no illegality or perversity has been found in the impugned order, the same deserves to be upheld. The revision petition having been found wholly misconceived, bereft of merit and without any substance, 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

01.09.2017
vishnu

Whether speaking/reasoned Yes/No

Whether reportable Yes/No