

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No. 6898 of 2017

Date of decision : 06.10.2017

Raj Rani

.....Petitioner(s)

Versus

Shindo and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Sandeep Bansal, Advocate
for the petitioner.

ANITA CHAUDHRY, J.

The petitioner is aggrieved by the order dated 30.08.2017 vide which the Civil Judge (Jr. Division), Hoshiarpur had permitted the plaintiff to re-examine its own witness.

It would be necessary to give the background. Shindo – plaintiff had filed a suit claiming that Rano Devi – defendant no.2 was the wife of Sarwan Singh and she alongwith defendant no.2 were owners of the property left behind by Sarwan Singh. The plaintiff examined one Krishna Kumari PW-8 on 14.07.2017. The counsel appearing for the defendant sought adjournment for the cross-examination. The case was adjourned for 02.08.2017. On that day the cross-examination was completed. On the same day the plaintiff moved an application for re-examination of the witness as during the cross-examination the witness had made a statement which was

contrary and contradictory to the examination-in-chief and she claimed that the witness had been won over by the defendants in the interregnum. That application was allowed after defendant no.1 had filed reply and on hearing both the sides.

I have heard the counsel for the petitioner.

Counsel for the petitioner refers to *K.K. Velusamy Vs. N. Palanisamy (2011) 11 SCC 275* and urges that the witness could not have been recalled for further examination as there was no contradiction and it is with a view to fill up the lacuna. It was urged that re-examination cannot be permitted simply because some questions were left and the order is illegal and should be set aside. The counsel had referred to the statement made by way of examination-in-chief and the cross-examination.

I find no merit in the petition. The cross-examination should be carried out on the date the examination-in-chief is recorded. There was no reason for the defendants to seek an adjournment to cross-examine the witness. This practice is deprecated. A reading of the closing lines of the examination-in-chief state a particular fact that the witness had attended the marriage of Rano Devi with Sarwan Singh. The witness had also stated that she knew the plaintiff and she was the daughter of Sarwan Singh but in the cross-examination conducted on 02.08.2017, she stated that she did not know whether Sarwan Singh had married Rano Devi. She completely denied seeing Shindo in the village. Since the witness had contradicted herself, the Court should have given an opportunity to the plaintiff to cross-examine the witness there and then and find out as to which part of her statement was correct. The Court was obliged to do that. The plaintiff immediately moved

an application on the same day seeking to re-examine the witness which has now been allowed. I see no infirmity in the order. The authority referred to by the petitioner does not help the petitioner.

The petition is dismissed in limine.

06.10.2017
sunil

(ANITA CHAUDHRY)
JUDGE

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