

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

Civil Revision No.7950 of 2017

Date of Decision:14.11.2017

Narinder

.....Petitioner

V/S

Chander Bhan alias Chander and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE B.S.WALIA

Present: Mr. Parminder Singh, Advocate for the petitioner.

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B.S.Walia, J. (Oral)

1. Plaintiff-petitioner has challenged order Annexure P-6 dated 12.10.2017, whereby application filed for recalling witness-DW-2-Randhir Singh for further cross-examination was dismissed.

2. Heard. Learned counsel contends that application for recalling DW-2 was moved as certain questions could not be put to him earlier regarding documents produced by him after conclusion of his oral evidence.

3. A perusal of the impugned order reveals that the learned trial Court took into account that the suit was pending at the stage of rebuttal evidence, if any and for hearing of final arguments w.e.f. 17.10.2016. Application moved by the plaintiff for production of additional evidence on 26.10.2016 was allowed vide order dated 03.11.2016, documents by way of additional evidence i.e. Ex. P-22 to Ex. P-25 were tendered by the plaintiff and additional evidence was closed on 05.11.2016 and it was only thereafter that application was moved on 30.11.2016 for recalling DW-2 for further cross-examination.

4. Learned trial Court observed that the parties had led oral as well as documentary evidence, case was fixed for leading rebuttal evidence if any and final arguments, after grant of ample opportunity to the plaintiff to bring on

record entire oral as well as documentary evidence and after lengthy cross-examination of DW-2 by counsel for the plaintiff as well as defendant Nos.1 & 3, besides additional evidence having been led to counter defendant No.2's oral as well as documentary evidence and it was only thereafter that the application for recall of DW-2 for further cross examination was moved.

5. Learned trial court held that in the circumstances, the application was nothing but an attempt to reopen the entire evidence in the case to fill up lacune in plaintiff's evidence. Accordingly, the learned trial court dismissed the application for recall of DW-2 for further cross examination by holding that no justification was made out for moving the application for recall of DW-2 for further cross-examination as the documents had been tendered by DW-2 in his evidence in the presence of the plaintiff as well as defendant No's.1 & 2.

6. There is no dispute with the proposition that procedure is a handmade in the administration of justice. If the circumstances of the case so warrant, application for recalling a witness for further cross examination can be allowed in an appropriate case. However, the power to recall a witness cannot be exercised in routine and that to for filling up lacuna in the evidence of a party. Mere bald averment that certain questions remained to be put to DW-2 is of no avail. Admittedly, DW-2 was cross-examined at length on 03.03.2016, documents were submitted by him in presence of parties, whereafter the case was for rebuttal evidence, if any, and hearing for final arguments w.e.f 17.10.2016. Thereafter, application moved by the plaintiff under Section 151 of the CPC for production of documents by way of additional evidence on 26.10.2016 was allowed vide order dated 03.11.2016 whereafter the plaintiff submitted documents in additional evidence and closed additional evidence on 05.11.2016. Thereafter, moving of application for recall of DW-2 for further

cross examination by stating that few more questions were left to be put to DW-2 is nothing except an attempt to fill up lacuna left in the evidence of the plaintiff by reopening the entire evidence of the case which had already been concluded after thorough cross-examination of all witnesses by the parties.

7. Accordingly, finding no merit in the revision petition, the same is dismissed in limine. No order as to costs.

**(B.S.WALIA)**  
**JUDGE**

14.11.2017

Anjal

Whether speaking/reasoned?  
Whether reportable?

Yes/No  
Yes/No