

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

Civil Revision No.943 of 2017 (O&M)
Date of decision: April 21, 2017

Rakesh Kumar Yadav

...Petitioner

Versus

Krishan Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. J.P. Jangu, Advocate for the petitioner.

Rajan Gupta, J.

Present revision petition is directed against the order dated 28.10.2016, passed by the trial court, whereby application filed by the petitioner/defendant No.4 for cross-examining DW-7 by recalling him, has been declined.

It has been urged before the court by learned counsel for the petitioner that defendant No.1 and the petitioner/defendant No.4 have taken different pleas in their written statements, as DW-7 has deposed against the interest of the petitioner. He submits that any party in the suit has right to cross-examine any witness.

I have heard learned counsel for the petitioner and given careful thought to the facts of the case.

It appears, respondent No.5/plaintiff filed a suit for permanent injunction impleading the petitioner as proforma defendant No.4. Written statement was filed by the petitioner. After plaintiff closed his evidence, in defendants' evidence, Ramesh Kumar appeared as DW-7 and tendered his

affidavit. Thereafter, instant application was filed by the petitioner/defendant No.4 for recalling him for the purposes of cross-examination. Same was dismissed by the trial court, observing that application to cross-examine this witness by petitioner/defendant No.4 is not tenable as still he has right to lead evidence to rebut the same. I find no infirmity with the order. A perusal of the impugned order shows that plaintiff has sought relief only against defendants No.1 to 3 and defendants No.4 to 6 being co-owners have been impleaded as proforma defendants. Petitioner did not file any counter claim regarding possession of the property in question. Still he has opportunity to disprove possession of contesting defendants by leading evidence. The revision petition is, thus, without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

April 21, 2017
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No