

CR No.1540 of 2018

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR No.1540 of 2018
Date of decision: 08.03.2018

Prem Singla and another

.....Petitioners

versus

Smt. Veena Jain and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Ravi Dutt Sharma, Advocate, for the petitioners.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Article 227 of the Constitution of India, defendants have laid challenge to order dated 02.01.2018 (Annexure P-9) of the trial Court, dismissing their application under Order 18 Rule 17 CPC for recalling PW1 Subhash Chand Jain for cross-examination.

In nutshell, respondents-plaintiff filed a suit for injunction against the petitioners-defendant restraining them from interfering into their peaceful possession or from raising any construction over the suit land, which has been contested by the petitioners-defendant by filing written statement.

After framing issues, respondents-plaintiff in support of their case, examined PW1 Subhash Chand Jain, who, according to the impugned order was cross-examined by counsel for the appellants twice at length on 07.08.2015 and 07.09.2015.

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learned trial Court failed to appreciate that application of the petitioners for directing respondents-plaintiff to produce original agreement on the case file was allowed vide order dated 02.01.2018. Pursuant thereto, respondents-plaintiff produced the same on record, therefore, recalling of PW1 Subhash Chand Jain was very much necessary to put some questions to him relating to the agreement aforesaid for effective adjudication of the case.

Having given considerable thought to the submissions made by learned counsel for the petitioners, I find that instant revision is completely devoid of any merit for the reasons to follow.

It is well-settled that a party has to stand on its own legs. It cannot be permitted to take advantage of the weaknesses, if any, in the case of its opponent. In the instant case, petitioners have to prove their assertions in written statement by leading evidence in affirmative. PW1 Subhash Chand Jain has already been cross-examined at length twice on two different dates by the petitioners and thus he cannot be recalled for the third time for further cross-examination, more particularly, when he has already been cross-examined qua the agreement produced on record.

I have gone through the impugned order and find no illegality or perversity in the same.

In view of the discussion made above, petition is dismissed.

March 08, 2018
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No.