

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.R. No.1598 of 2018(O&M)
Date of Decision: 15.03.2018

Balwinder Singh & ors.

.... Petitioners

Versus

Jaswant Singh

.... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Inderjit Sharma, Advocate,
for the petitioner.

Mr. Dheeraj Mahajan, Advocate,
for the caveator-respondent.

RAMENDRA JAIN, J. (ORAL)

Vakalatnama filed by learned counsel for the caveator-respondent, is taken on record.

Through this petition under Article 227 of the Constitution of India, prayer has been made for setting aside order dated 06.02.2018 (Annexure P-11) of the trial Court treating the cross-examination of the respondent by the petitioners nil on account of their refusing for the same on the ground that their revision petition against the earlier order dated 07.09.2017 was pending before this Court.

In nutshell, respondent-plaintiff filed a suit for specific performance of contract against the petitioners-defendant, which is being contested by them.

The trial Court after taking necessary pleadings from both the sides on record, framed issues and asked the respondent-plaintiff to lead his evidence. Consequently, the respondent-plaintiff in support of his case tendered his affidavit and submitted himself for cross-examination by the petitioners, but they

refused to do so even despite specific asking of the trial Court on the ground that they would not cross-examine him till the decision of their revision petition challenging some earlier order dated 07.09.2017 of the trial Court before this Court. Therefore, the trial Court finding no other option treated the cross-examination of the respondent-plaintiff(PW-1) on behalf of the petitioners-defendant as nil.

Learned counsel for the petitioners *inter alia* contends that in the interest of justice, the petitioners may be given an opportunity to cross-examine the respondent-plaintiff to bring true picture on the record as to which of the party was at fault in not materializing the sale transaction between them.

Having given anxious consideration to the submission made by learned counsel for the petitioners, I find that the instant petition is completely devoid of any merit.

A perusal of interlocutory orders produced by learned counsel for the caveator-respondent shows that the petitioners intentionally and deliberately intended to delay the proceedings before the trial, making lame excuse of pendency of their revision petition before this Court, challenging earlier order of the trial Court dated 07.09.2017, knowing the fact that this Court had not stayed trial. More so, pendency of any revision before this Court was no ground to refuse to cross-examine the respondent-plaintiff or to seek adjournment.

Since the petitioners made an illegal attempt before the trial Court for adjournment by moving an application on the pretext of pendency of revision petition before this Court, therefore, this Court is of the considered view that the trial Court has rightly rejected their request for adjournment by dismissing their application in this respect and treating the cross-examination of the respondent-

plaintiff on their behalf as nil when they refused to do so even on asking of the Court.

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

15.03.2018
monika

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No