

Civil Revision No.1960 of 2018

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

Civil Revision No.1960 of 2018
Date of decision: 23.03.2018

Vijay Kumar

.....Petitioner

versus

Mukhtiar Singh (since deceased) through his LRs

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. S.K. Arora, Advocate, for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Article 227 of the Constitution of India, challenge has been laid to order dated 06.03.2018 (Annexure P-1) of the trial Court, whereby application of the respondents-plaintiff for recalling PW1 and offering him for cross-examination by petitioner-defendant No.1, has been allowed.

Learned counsel for the petitioner, relying upon the judgment of this Court in *Gurmeet Singh and another v. Charanjit Kaur and another*, 2016(3) PLR 49 *inter alia* contends that under Order 18 Rule 17 CPC, the power to recall a witness lies only with the Court and not with a party. The trial Court has illegally recalled PW1 for cross-examination by the petitioner upon application of the respondents-plaintiff.

Having given considerable thought to the submissions made by learned counsel for the petitioner, this Court finds the instant petition completely meritless for the reasons to follow.

When the respondents-plaintiff came to know about the fact that their evidence has wrongly been closed without completion of cross-examination of PW1, they moved application under Order 18 Rule 17 CPC

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to recall him for his cross-examination, which has been allowed by the trial Court. In the consideration opinion of this Court, in the interest of justice, nothing wrong has been done by the trial Court.

Learned counsel is not able to make any fruitful argument or convince this Court as to what prejudice is going to be caused to the petitioner, if he has been permitted by the trial Court to cross-examine PW1. Challenge to the impugned order has been laid with mala fide and dishonest intention to take a plea at the time of final arguments that statement of PW1 cannot be read into evidence for the reason that petitioner was not given full opportunity to cross-examine him.

A person should be fair in his conduct. He should not be permitted to win a legal battle on technical ground or adopting a short-cut method.

No prejudice is going to be caused to the petitioner, if the respondents have offered him to cross-examine PW1 by recalling him with the leave of the Court. Rather petitioner would get an opportunity to test the veracity of the statement in chief of PW1.

In view of the discussion above, petition is dismissed with costs of ₹5,000/- to be deposited with the District Legal Services Authority, Ferozepur.

A copy of this order be sent to District Legal Services Authority, Ferozepur, to recover the aforesaid costs from the petitioner.

March 23, 2018
R.S.

(Ramendra Jain)
Judge