

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

CR No.28 of 2018
Date of decision: 09.01.2018

Subhash Chander and anr.

... Petitioners

versus

Municipal Council Kurali and ors.

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Deepak Bhardwaj, Advocate
for the petitioners.

Ramendra Jain, J.(Oral)

Through this revision petition challenge has been laid to the order dated 06.12.2017 (Annexure P-10) of the learned Addl. Civil Judge (Sr. Division) Rupnagar, whereby the legal representatives of defendant No.3 have been permitted to re-cross-examine the plaintiff-petitioner No.1 while allowing their application in this respect.

Learned counsel for the petitioner contends that the cross-examination of the petitioner/plaintiff No.1 was concluded by the original defendant No.3 on 07.01.2016, who later on expired. His LRs through an application on 30.08.2016 were brought on record and they moved an application on 07.09.2017 for recalling the petitioner for further cross-examination. The trial Court has wrongly and illegally allowed the said application vide order dated 06.12.2017 (Annexure P-10) filed belatedly by respondents No.3 (a) to (c) after more than one year and nine months, just to fill up the lacuna in their defence. The trial Court ought not to have permitted the respondents for further cross-examination of the petitioner. In support of his arguments, he has placed reliance on the judgment of Hon'ble Supreme Court in *Vadiraj Naggappa Vernekar (D) through LRs vs. Sharad Chaznd*

Prabhakar Gogate, 2009(2) RCR (Civil) 508.

After having given anxious consideration to the submissions made by learned counsel for the petitioner, I find the instant revision completely devoid of any merit for the reasons to follow:

Learned counsel for the petitioner could not point out as to what prejudice is going to be caused, if petitioner No.1 is further cross-examined for effective adjudication of the real controversy between the parties. His simple stand that allowing of further cross-examination of petitioner No.1 by the respondents amounts to fill up the lacuna has no legs to stand inasmuch as undisputedly when the cross-examination of the petitioner was concluded, the respondents No.3(a) to (c) - applicants were not party to the suit.

They joined only after the death of their predecessor-in-interest. If they want to get clarified certain further facts from the mouth of petitioner No.1, in that eventuality, it cannot be said that the same would tantamount to fill up the lacuna. Rather in the opinion of this Court, further cross-examination of the petitioner would help the trial Court in effective adjudication of the real controversy between the parties. The facts of the *Vadiraj Naggappa Venekar (D) through LRs's case(supra)* are not identical to the facts of the present case rather are distinguishable, therefore, no benefit of the same can be given to the petitioner.

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

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

09.01.2018

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Whether speaking/non-speaking?

Whether reportable?

(RAMENDRA JAIN)

JUDGE

Yes/No

Yes/No