

(118) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.8097 of 2018

Date of decision: 29.11.2018

Mohinder Singh and another

.... Petitioners

Versus

Sarabjit Kaur and another

..... Respondents

BEFORE: HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. Sudhir Paruthi, Advocate for the petitioners.

B.S. Walia, J. (Oral)

[1] Revision petition has been filed under Article 227 of the Constitution of India challenging order dated 01.11.2018 passed by the learned Civil Judge (Jr. Div.), Jalandhar dismissing application filed by the petitioners for recalling of PW-4 i.e. Hemant Bawa for his cross-examination.

[2] Hemant Bawa (PW-4) was examined in chief on 18.10.2016 and his cross-examination was deferred from time to time on the request of counsel for the petitioners/defendants on number of occasions. Thereafter, PW-4 i.e. Hemant Bawa was present on 11.09.2017 as well as 17.10.2017 for his cross-examination but he was again not cross-examined by counsel for the petitioners/defendants therefore on 17.10.2017 his cross-examination was ordered to be treated as 'Nil'. The learned Civil Judge (Jr. Div.), Jalandhar after considering that the application had been filed after passing

observed that the application had been filed merely to delay the proceedings. Accordingly, the application for recalling PW-4 i.e. Hemant Bawa was dismissed on the ground that the same was due to dereliction on the part of the petitioners/defendants on account of which PW-4 i.e. Hemant Bawa was not cross-examined despite availing numerous opportunities.

[3] Learned counsel contended that the petitioners/defendants is willing to pay costs in case the impugned order was set aside and one opportunity granted to cross-examine Hemant Bawa (PW-4).

[4] I have considered the submission of learned counsel for the petitioner.

[5] Admittedly, Hemant Bawa (PW-4) was examined in chief on 18.10.2016 and his cross-examination was deferred from time to time on the request of counsel for the petitioners/defendants on number of occasions. Thereafter, despite being present on 11.09.2017 as also on 17.10.2017 for cross-examination, Hemant Bawa (PW-4) again was not cross-examined by counsel for the petitioners/defendants whereupon his cross-examination was ordered to be treated as 'Nil'. As has been noted by the learned trial Court that the case in hand was an old one, besides, the application for recalling of Hemant Bawa (PW-4) was filed one year after the passing of order dated 17.10.2017 treating cross-examination as Nil. It is apparent that the application was rightly dismissed as it was solely on account of negligence on the part of the petitioners/defendants that the cross-examination of PW-4 i.e. Hemant Bawa was not conducted despite availing number of opportunities for the same. Negligence of the petitioners/defendants is further compounded from the fact that the application was moved for recalling Hemant Bawa (PW-4) for cross-examination one year after the passing of the impugned order.

[6] In the circumstances, I do not find any circumstance warranting interference with the well-reasoned order passed by the learned trial Court.

[7] Revision petition is, accordingly, dismissed.

(B.S. Walia)
Judge

29.11.2018
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No