

VIKAS CHANDER
2019.01.24 15:20

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

CR no.239 of 2019

Date of Decision: 22.01.2019

Om Parkash Sabharwal

...Petitioner

Vs.

Varinder Kumar Sabharwal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Saransh Saharwal, Advocate, for the petitioner.

Amol Rattan Singh, J (Oral)

By this petition, the petitioner seeks setting aside of the order passed by the Additional Civil Judge (Sr. Divn.), Panchkkula, dated 02.11.2018, whereby his application seeking recalling of the plaintiffs' (respondent no.1 herein) witnesses, Ashok Sabharwal and Lalit Sabharwal, has been dismissed.

Pursuant to the notice issued in this petition, Mr. Vineet Sehgal, Advocate, appears for respondent no.1 (the contesting respondent) and submits that documents tendered as Marks 1 to 4 by the plaintiff are letters written by the petitioner (defendant no.1) himself to the plaintiff and consequently, there would be no reason for the petitioner to cross-examine any person with regard to the said documents.

As regards the other documents, Mark 5 to Mark 8, they are contended to be documents in respect of which the witnesses sought to be

re-examined need not be examined, they not being concerned with those documents.

Learned counsel for the petitioner, on the other hand, reiterates that if the documents are eventually accepted by the trial court even in terms of the impugned order, with the petitioner given absolutely no chance to rebut them by cross-examining the witnesses sought to be recalled, it would cause irreparable prejudice the petitioner.

Having considered the arguments, in my opinion counsel for the petitioner is absolutely right to the effect that if at the time of final adjudication of the suit, the trial court in its judgment decides to accept the documents as 'collateral' to the documents already exhibited, or even as exhibited documents or, without taking them as exhibited documents accepts the contents thereof, the petitioner obviously would stand prejudiced.

Consequently, the impugned order is modified to the extent that the trial court will take a decision on acceptance or rejection of the documents marked as Mark 1 to Mark 8 prior to final adjudication in the suit, and if it accepts any of the aforesaid documents, or the contents thereof, either by way of being 'collateral' to already exhibited documents, or otherwise, it would give the petitioner an opportunity of recalling the witnesses as are necessary to be recalled for cross-examination in respect of

those documents.

Disposed of in the aforesaid terms.

22.01.2019

vcgarg

(Amol Rattan Singh)

Judge

Whether speaking/reasoned : Yes

Whether reportable : Yes