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

CR No. 5414 of 2018 (O&M)

Date of Decision: 08.02.2019

Khushwant Singh

-Petitioner

Vs

Tarlochan Singh and others

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Saurabh Bajaj, Advocate,
for the petitioner.
Mr. C.B. Goel, Advocate,
for the respondents.

RAJ MOHAN SINGH, J. (ORAL)
CM No.27246-CII of 2018

Vide order dated 21.08.2018, notice of motion was issued for 29.10.2018. On 29.10.2018, turn of the case did not reach and the case was adjourned to 27.02.2019 by order. On 14.12.2018, notice in the application for vacation of exparte stay was issued for 17.01.2019, for final disposal.

With the concurrence of both the parties, main case is taken up today.

Main case

Petitioner has preferred this revision petition against the order dated 03.08.2018 passed by Additional Civil Judge (Senior Division), Pehowa vide which the application filed by the petitioner for directing DW1- respondent No.1 to step into the witness box for cross-examination was dismissed.

DW1 had tendered his affidavit in examination-in-chief. He did not appear for his cross-examination. An application was filed by the petitioner before the Court to order presence of the defendant for cross-examination.

Stand of defendant No.1 stood ventilated in view of his reluctance to appear for cross-examination. Consequences of such refusal may give rise to drawing of adverse inference against him by the Court at the relevant stage.

Even otherwise, the witness cannot be compelled to step up into the witness box merely on the ground that he has tendered his affidavit in examination-in-chief.

Even if an order is passed and thereafter, witness does not turn up for cross-examination, the only inference that can be drawn is by way of adverse inference. Civil cases are to be decided on the basis of preponderance of probability.

Reference can be made to Order 16 Rule 20 CPC.

In view of above, there is no error of jurisdiction passed in the impugned order by the trial Court.

This revision petition is accordingly, dismissed.

Normal consequences to follow.

08.02.2019
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No