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

**Civil Revision No.6665 of 2017 (O&M)
Date of Decision: 24.01.2019**

NORTI RAM

.....Petitioner

Vs

SURESH GOEL

....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Parminder Singh, Advocate
for the petitioner.

Mr. Wazir Singh, Advocate
for the respondent.

RAJ MOHAN SINGH, J. (Oral)

[1]. This revision has been preferred by the petitioner against the order dated 16.09.2017 passed by the Addl. Civil Judge (Sr. Divn.) Karnal, vide which application filed by the defendant/petitioner for recalling of the plaintiff/respondent for further cross-examination on the basis of subsequent facts was dismissed.

[2]. At the time of issuance of notice of motion, learned counsel for the petitioners contended that the suit for specific performance with a consequential relief of permanent injunction

was filed by the plaintiff on the basis of agreement to sell dated 29.10.2014. Plaintiffs alleged that the agreement to sell was in respect of full payment and the same was executed in respect of residential property.

[3]. It was further contended that the defendant denied the very execution of the agreement to sell, rather pleaded that he was dealing with one Parmod Kumar. Plaintiff has already been examined as PW-1 including his cross-examination on 01.02.2017. Defendants/petitioner filed an application for recalling of plaintiff for further cross-examination on the premise that due to non-availability of documents viz. the complaint under Section 138 of the Negotiable Instruments Act, the defendant could not cross-examine the plaintiff at the relevant stage. The document was received by the petitioner only after his arrest on 26.07.2017 and he wanted to put the document to the plaintiff in his further cross-examination. At that stage, petitioner was directed to file a specific affidavit to deny the factum of execution of sale deed by him in favour of Sangita Rani on 05.09.2013 and nor he has executed any agreement to sell in favour of Satnam Singh.

[4]. In compliance of the aforesaid order, the petitioner has filed the affidavit dated 09.05.2018 with the following recital in para No.2:-

2. *“That so far as the another agreement of the property is concerned, it is submitted that one point of time loan was obtained over the property and the same has been cleared by the deponent. The third party without any sale consideration/payment get executed the document/agreement in their favour. The deponent has already made challenge to the document/agreement/sale deed by filing a separate civil suit and in this manner the deponent has never agreed to sell the suit property either in favour of the respondent or in favour of the third party.”*

[5]. Perusal of the aforesaid para would show that the petitioner has admitted the execution of sale deed, rather to deny the same as per aforesaid order. The trial Court while dismissing the application has taken note of the fact that during cross-examination of the plaintiff, defendant/petitioner did not ask any question with regard to the complaint despite sufficient opportunities and the said fact was very much in the knowledge of the petitioner as the cheque was allegedly given to the plaintiff on the basis of which criminal complaint was filed by the plaintiff. Defendant did not appear in the Court to avoid proceedings and thereafter proclamation was issued against him in addition to lodging of FIR No.730 dated 10.09.2016 under Section 174-A IPC. The factum of sale deed in favour of Sangeeta has not been denied by the petitioner.

[6]. Even under Order 18 Rule 17 CPC, the provision can only be used as per convenience of the Court and the relief

cannot be asked by the party to the *lis* in view of ratio of judgment in **Surinder Kaur vs. Karanbir Singh, 2004(3) R.C.R. (Civil) 161** and **Ram Rati vs. Mange Ram (D) through LRs and others, 2016(2) R.C.R. (Civil) 464.**

[7]. In view of aforesaid, I find no error of jurisdiction in the impugned order passed by the trial Court. This revision petition is accordingly dismissed.

January 24, 2019

Atik

Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No