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

**Civil Revision No.3316 of 2019
Date of Decision: 20.05.2019**

Jasbir Singh

.....Petitioner

Vs

Mohinder Singh

....Respondent

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

Present: Mr. Ishan Singh, Advocate for
Mr. Rajesh Kapila, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.

[1]. Petitioner has challenged the order dated 22.04.2019 passed by the Civil Judge (Jr. Divn.) Gurdaspur vide which the application filed by the petitioner for recalling the order dated 18.12.2018 and recalling of PW-1 and PW-2 for their cross-examinations was dismissed.

[2]. Perusal of the record would show that PW-1 Mohinder Singh and PW-2 Pawan Kapil were examined by the plaintiff, but they could not be cross-examined by the defendant. The aforesaid witnesses filed their affidavits on 19.09.2016. Learned counsel for the defendant did not cross-examine them on the said date. The cross-examinations of the aforesaid witnesses

were deferred at the instance of learned counsel for the defendant. Thereafter, PW-1 Mohinder Singh attended the Court on 04.08.2017, but was not cross-examined by the defendant. The witness was also ready for cross-examination on 25.05.2018, but learned counsel for the defendant did not cross-examine him even on that day.

[3]. Thereafter, on 12.10.2018, learned counsel for the defendant did not come to the Court due to some bereavement in the family and the witness could not be cross-examined. The witness again attended the Court on 18.12.2018, but learned counsel for the defendant did not cross-examine him even on that date. PW-2 Pawan Kapil had already been cross-examined on 08.05.2017. The present application has been filed under Section 151 CPC for recalling of order dated 18.12.2018 and for recalling of PW-1 and PW-2 for their cross-examinations.

[4]. In view of facts and circumstances of the case, the Court finds that the conduct of the petitioner is not *bona fide*, rather the defendant/petitioner was involved in delaying the proceedings since 19.09.2016 onwards. In view of aforesaid instances quoted with reference to dates, no indulgence can be granted in favour of the petitioner. Recalling of witnesses in such a situation would be governed by the provision in terms of Order 18 Rule 17 CPC which is the enabling provision for the

convenience of the Court and the same cannot be used by the petitioner for recalling of the witnesses. The powers under the aforesaid provision have to be exercised very sparingly and that too under the exceptional circumstances.

[5]. In view of facts narrated in preceding part of the order, I find that the conduct of the petitioner is not such which would enable him to seek discretion of the Court for recalling of the witnesses. This revision petition is found to be devoid of merits and is accordingly dismissed as such.

May 20, 2019

Atik

Whether speaking/reasoned
Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No
Yes/No