

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.4613 of 2019

Date of decision: 25.07.2019

Balwinder Singh

.....Petitioner

Versus

Harinder Singh and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. K.S. Chahal, Advocate,
for the petitioner.

Ritu Bahri, J.

Challenge is to the order dated 16.05.2019 (Annexure P-1) passed by the Additional Civil Judge (Senior Division), Sangrur, whereby statement of defendant Nishu Sharma (Nishu) has been declined as a witness of the plaintiff.

Learned counsel for plaintiff-petitioner states that on 08.05.2019, Nishu Sharma-defendant No.1 had appeared as a witness of the plaintiff and at that time, defendant No.5 raised objection that Nishu Sharma, being one of the defendants, could not be examined as a witness of the plaintiff. The said objection was dismissed by the trial Court. However, subsequently, vide impugned order dated 16.05.2019 (Annexure P-1), this order (i.e. order dated 08.05.2019) has been modified and it has been mentioned that the '**objection deserves merit and the same stands allowed**'.

Learned counsel for the petitioner refers to a judgment passed by Division bench of Patna High Court in Sri Awadh Kishore Singh and another vs. Sri Brij Bihari Singh and others, 1993 AIR (Patna) 122, to

contend that order debarring plaintiff from allowing him to examine defendant as witness on his behalf is totally wrong and suffers from jurisdictional error. Plaintiff can examine any witness he so likes. The witness may be a stranger, may be a man of his own party or party himself or may be a defendant or his man.

In the facts of the present case, Nishu-defendant No.1 had appeared as witness on behalf of plaintiff. Defendant No.5, at best, had a right to cross examine the said witness. His objection that this witness could not appear as a witness of plaintiff, could not be allowed.

In view of the said fact, this petition is partly allowed and the impugned order dated 16.05.2019 (Annexure P-1) is modified to the effect that defendant-Nishu, who had appeared on behalf of the plaintiff, shall be treated as a witness of the plaintiff. However, one opportunity shall be granted to the defendants to cross-examine the said witness, if defendants want to do so.

25.07.2019
ajp

(RITU BAHRI)
JUDGE

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