

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

CR No.5969-2019 (O&M)

Date of decision:- 27.9.2019.

Inderjit Singh and others

...Petitioners

Versus

Raj Kumar and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Nonish Kumar, Advocate for the appellants.

RITU BAHRI J. (Oral)

Petitioners-plaintiffs are aggrieved against the order dated 13.8.2019 (Annexure P-7), passed by learned Civil Judge (Junior Division), Yamuna Nagar at Jagadhri vide which an application filed by the petitioners seeking recalling of defense witness (DW-2) Ram Kumar for further cross-examination has been dismissed.

A perusal of the impugned order dated 13.8.2019 shows that DW-2, Ram Kumar was examined on 17.12.2018 and thereafter defendant evidence was closed on 26.2.2019. The said application was dismissed by observing that the application to recall this witness should have been made on the same date or on next date. On 18.3.2019 when the case was fixed for rebuttal evidence, this application has been moved.

Learned counsel for the petitioner contends that two documents i.e. Ex. P-1 and Ex. P-5 i.e. the exchange deed and *akshajara* were not put in cross-examination to the witness DW-2 Ram Kumar inadvertently and delay in filing this application cannot be made a ground to dismiss the application as these documents were already exhibited before the trial Court.

Keeping in view the fact that both these documents i.e., Ex P-1 and Ex. P-5 i.e. the exchange deed and *akshajara* were already exhibited documents for correct decision of the civil suit, one effective opportunity ought to be given to the plaintiffs to cross examine and recall the defence witness- (DW-2) Ram Kumar. Accordingly, the impugned order dated 13.8.2019 (Annexure P-7), passed by learned Civil Judge, (Junior Division), Yamunanagar at Jagadhari is set aside and a direction is issued to the trial Court to recall the defense witness (DW-2) Ram Kumar and give one effective opportunity to cross-examine the said defense witness subject to deposit of Rs. 5000/- as costs to be deposited with the State Legal Services Authority, Yamunanagar at Jagadhri.

Revision stands allowed.

27.09.2019
preeti

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No