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

**1. Civil Revision No.7045 of 2019 (O&M)
Date of Decision: 13.12.2019**

**Sanjay Kumar JhambPetitioner
Vs
Vidhya Sagar Kakar and othersRespondents**

2. Civil Revision No.7080 of 2019 (O&M)

**Sanjay Kumar JhambPetitioner
Vs
Vidhya Sagar Kakar and othersRespondents**

3. Civil Revision No.7082 of 2019 (O&M)

**Sanjay Kumar JhambPetitioner
Vs
Vidhya Sagar Kakar and othersRespondents**

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

Present:Mr. Adarsh Jain, Advocate
for the petitioner.

Mr. Abhinav Sood, Advocate for
Mr. Vikram Singh, Advocate
for respondent No.4.

RAJ MOHAN SINGH, J.

[1]. Vide this common order, CR Nos.7045, 7080 and 7082 of 2019 (O&M) are being decided. Since similar controversy is involved in all these petitions, therefore, for brevity the facts are being culled out from CR No.7045 of 2019 (O&M).

[2]. Earlier CR No.7368 of 2018 titled '*Vidya Sagar Kakar*

vs. Sanjay Kumar and others' was decided by this Court after noticing incriminating facts on record.

[3]. The aforesaid revision petition was filed against the order dated 11.10.2018 passed by the Civil Judge (Junior Division) Karnal, vide which the application under Section 151 CPC and under Section 165 of the Evidence Act filed by the petitioner to lead further evidence after recalling the order dated 20.08.2018 was allowed.

[4]. Respondent No.1 was the petitioner in the aforesaid revision petition and the present petitioner was respondent No.1 therein. Vide order dated 20.08.2018, evidence of the defendants was closed on the ground that despite availing 16 effective opportunities, the defendants could not conclude their evidence. Examination-in-chief of the petitioner/DW-3 was complete except his cross-examination. At that stage, the Court proceeded to close the evidence of the remaining defendants by order of the Court and the case was adjourned for 11.09.2018 for cross-examination of DW-3/petitioner. The suit was in the action plan having being filed in the year 2013. Vide order dated 18.11.2017, the case was further adjourned to 24.11.2017 for evidence of the defendants. Till 20.08.2018 despite numerous effective opportunities, the defendants could not conclude their evidence except examination-in-chief of DW-3.

[5]. On 11.09.2018, learned counsel for the defendants submitted that the witness could not appear due to some medical problem. Owing to hospitalization of his wife, the witness was not mentally fit to be cross-examined. The said prayer was opposed by learned counsel for the plaintiff. The trial Court accepted the request of the defendants and last opportunity was granted to them to conclude entire evidence of DW-3 subject to payment of cost(s) of Rs.1,000/-. It was specifically observed that no further opportunity shall be granted for cross-examination of DW-3 and the evidence would be closed by order of the Court.

[6]. On 24.09.2018, the cross-examination of DW-3 was completely recorded. The amount of cost(s) was also paid. An application was filed by defendant No.3 for permission to lead evidence of handwriting and fingerprint expert. The said prayer was rejected by the trial Court after recording some facts and the case was adjourned for rebuttal evidence (if any) and arguments for 03.10.2018.

[7]. On 03.10.2018, the application under Section 151 CPC and under Section 165 of the Evidence Act was filed to lead further evidence after recalling the order dated 20.08.2018. The prayer was made to tender some documents and to examine attesting witness of Will executed in favour of defendant No.3.

The expert witness was sought to be examined in the evidence of defendant No.1 on the ground that it was necessary for proving the case of the defendant No.1. Defendant No.1 was cross-examined on 24.09.2018 and the prayer for adjournment for examination of handwriting and fingerprint expert was dismissed. The case was adjourned for rebuttal evidence (if any) and for arguments.

[8]. The order dated 24.09.2018 was passed after considering the import of orders dated 20.08.2018 and 11.09.2018 passed by the trial Court. The case was further adjourned to 03.10.2018 for rebuttal evidence (if any) and for arguments. On the same day, the application in question was filed by defendant No.1 for tendering some documents besides examining attesting witness of the Will and handwriting and fingerprint expert. The said application was allowed, subject to payment of cost(s) of Rs.5,000/- on the ground that the dispute was relating to the Will and the controversy would be solved, if an effective opportunity is granted to defendant No.1 to conclude the evidence.

[9]. This Court while accepting the aforesaid CR No.7368 of 2018 observed that the order dated 11.10.2018 has virtually taken away the rigour of orders dated 20.08.2018, 11.09.2018 and 24.09.2018 which were passed after noticing some

incriminating facts on record. Defendants could not conclude their evidence despite 16 effective opportunities. The prayer for examination of handwriting and fingerprint expert was declined vide order dated 24.09.2018. The order dated 11.10.2018 passed by the trial Court in a way had reviewed the order dated 24.09.2018 without there being any lawful challenge to that effect. The indulgence granted by the trial Court vide order dated 11.10.2018 was found to be illegal and was not endorsed by this Court by observing that the same would have the effect of review of order dated 24.09.2018 which was never challenged by the petitioner in any forum. The prayer for examination of handwriting and fingerprint expert was rejected on 24.09.2011 when defendant No.1 was cross-examined.

[10]. Vide order dated 04.09.2019, this Court accepted the CR No.7368 of 2018. Against the aforesaid order passed by this Court, SLP(C) No.24699 of 2019 was filed in the Hon'ble Apex Court. The Hon'ble Apex Court vide order dated 22.10.2019 was pleased to pass the following order:-

“After some arguments, leave is sought to withdraw the special leave petition, stating that the petitioner proposes to file a review application. We make no observations with regard to the same.

The special leave petition is dismissed.

Pending interlocutory applications, if any, shall stand disposed of.”

[11]. Perusal of the aforesaid order would show that the petitioner sought withdrawal of the SLP before the Hon'ble Apex Court with liberty to file a review application before this Court. The review was maintainable in CR No.7368 of 2018 only. Instead of filing any such review application in accordance with law, the petitioner has filed these three revision petitions against the orders dated 20.08.2018, 11.09.2019 and 24.09.2018 which was noticed by this Court while deciding the CR No.7368 of 2018. In the event of filing any review application in compliance of order dated 22.10.2019 passed in SLP, this Court would have considered the scope of review application under Order 47 Rule 1 CPC.

[12]. By filing different revision petitions against the aforesaid orders, the petitioner seeks to annul the rigour of order dated 04.09.2019 passed in CR No.7368 of 2019 which was passed on merits and the SLP against the said order was got withdrawn by the petitioner with permission to file review application. The record of the case would show that the evidence of the defendant was closed after granting 16 effective opportunities. The incriminating facts as noticed in the order dated 04.09.2019 passed in CR No.7368 of 2018 would not advance the case of the petitioner for grant of any interference in these revision petitions.

[13]. For the reasons recorded hereinabove, all these revision petitions are found to be devoid of merits and are accordingly dismissed.

December 13, 2019	(RAJ MOHAN SINGH)
<i>Atik</i>	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No