

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

CR-9545-2018 (O&M)
Date of decision: 10.09.2019

Harjinder Singh

...Petitioner

Versus

Gurmeet Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. P.S. Miglani, Advocate for the petitioner.

Mr. G.S. Virk, Advocate for respondent Nos.2 to 4.

H.S. MADAAN, J.

Under challenge in this revision petition is order dated 13.11.2018, passed by Civil Judge (Jr. Divn.) Ludhiana, vide which, the said Court had allowed DW-2 Balbir Singh to be declared as a hostile witness and defendant/respondent were allowed to cross examine him.

Briefly stated facts of the case are that revisionist/plaintiff Harjinder Singh had brought a suit against his four brothers, namely, Gurmeet Singh, Balwinder Singh, Sukhdev Singh and Balvir Singh, seeking a declaration that the suit property, situated at Village Sahauli and Village Khandoor, Tehsil & District Ludhiana, is ancestral coparcenary property of the plaintiff and the defendants, in which, they have got 1/5th share each and the transfer deed bearing document No.1851, registered on 11.05.2012 and another transfer deed bearing document No.121 registered on 17.04.2012 in favour of defendant Nos.1 to 4 are ineffective

qua the rights of the plaintiff and are liable to be set aside. The plaintiff had sought relief of permanent injunction also.

On getting notice, the defendants had appeared and contested the suit. The parties went to trial. The plaintiff procured his evidence. During the course of their evidence, the defendants examined DW-2 Balbir Singh, Lambardar, who had tendered his affidavit Ex.DB. When he was subjected to cross examination, he showed hostile tendencies towards the side which had summoned him. At request of counsel for defendants, he was declared a hostile witness and counsel for the defendants was allowed to cross examine the witness. The plaintiff felt aggrieved by the said order and has filed the instant revision petition.

I have heard learned counsel for the parties besides going through the record.

Section 154 of the Indian Evidence Act provides that the Court may, in its discretion, permit the person who calls a witness to put any question to him which might be put in cross-examination by the adverse party. In the present case, the defendants had summoned Balbir Singh, Lambardar of Village Khandoor, Tehsil & District Ludhiana, an attesting witness of the transfer deed executed by Gurcharan Singh in favour of his sons Gurmeet Singh, Balwinder Singh, Sukhdev Singh and Balvir Singh to prove its execution. The transfer deed was registered in the office of Sub Registrar, where signatures/thumb impressions of the executant and attesting witnesses had been taken. He had submitted his affidavit Ex.DB in his examination in-chief, fully supporting the case of

the defendants. However, in his cross examination on behalf of the plaintiff, he stated that when they reached the chamber of Advocate, the deed was already typed and signatures of all the persons were already appended and that neither the executant nor the beneficiaries had signed in his presence. He admitted it as correct that on reaching the office of Advocate, he had appended his signatures and proceeded to the office of Sub Registrar, where the deed was presented and photographs were clicked and then they came out. He had stated that Sub Registrar inquired from him about he being Lambardar and apart from that, nothing had been inquired from him. In that way, he deposed contrary to what he had stated in his affidavit. Therefore, the trial Court was justified in declaring him a hostile witness and granting an opportunity to the counsel for the defendants to cross examine him.

The impugned order passed by the trial Court in that regard is well reasoned and does not suffer from any illegality or infirmity, much less apparent on the face of such order. The order is certainly not perverse or in violation of settled judicial principles. Thus, no ground is made out to interfere in the said order by exercising revisional jurisdiction. As such, finding no merit in the revision petition, the same stands dismissed.

10.09.2019

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No