

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 1195 of 2018

Date of Decision: 15.01.2020

Amarjit Kaur

... Petitioner(s)

Versus

Balwinder Kaur and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal

Present: Mr. Amit Arora, Advocate
for the petitioner(s).

Mr. Anil Chawla, Advocate
for the respondents.

Anil Kshetarpal, J.

Plaintiff/petitioner is in revision against order dated 13.12.2017 passed by the learned Civil Judge (Senior Division), Tarn Taran declining request to declare Balkar Singh son of Gulzar Singh, who has been examined as PW.4, hostile and to grant an opportunity to the learned counsel for the plaintiff to cross-examine the said witness.

Plaintiff had examined the aforesaid witness to prove her case. The examination-in-chief was led through affidavit under Order XVIII Rule 4 CPC. In cross-examination, the witness has made a statement which somewhat appears to the petitioner to be against her case. Hence, request for declaring the witness hostile and for permission to cross-examine the witness was made to the Court which has been declined.

No doubt, the learned trial Court has not given reasons for

declining the prayer made, however, this Court, with the able assistance of

learned counsel for the parties, has gone through the plaint as also the entire statement of the witness Balkar Singh. From the reading of the entire statement (examination-in-chief and cross-examination), it is apparent that the aforesaid witness has not stated anything which is diametrically opposite to his statement in examination-in-chief. The plaintiff had examined the aforesaid witness to prove that she is widow of Gurdeep Singh. This witness, in cross-examination, has never stated that plaintiff is not the widow. The party can be granted permission to cross-examine is own witness only in rare and exceptional circumstances.

In the considered view of this Court, keeping in view the statement of the witness, this Court does not find that the present case falls in the aforesaid category. Learned counsel for the opposite party has a right to cross-examine the witness and try to impeach his credibility. Sometimes in cross-examination, the witnesses do make a statement which is somewhat different than what has been stated in the examination-in-chief. However, such variation in the statement is not itself sufficient to get the aforesaid witness declare hostile. Hence, the plaintiff is not entitled to any opportunity to cross-examine his own witness. Hence, no ground is made out to interfere and as such, present petition shall stand dismissed.

(Anil Kshetarpal)
Judge

January 15, 2020
“DK”

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