

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

CR-3207-2021 (O&M)

Date of Decision: December 21, 2021

Parmohan Singh and another

...Petitioners

VERSUS

Gurmeet Singh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Gagandeep Singh Sirphikhi, Advocate
for the petitioners.

ARCHANA PURI, J.

The matter has been taken up through video conferencing in the
light of COVID-19 pandemic.

CM-13787-CII-2021

The application is allowed, subject to just exceptions.

CR-3207-2021

The present petition has been filed for setting aside the order
dated 04.02.2020 passed by learned Civil Judge (Jr. Divn.), Batala, vide
which the application filed by defendants No.1, 2 and 5, with a prayer for
direction to the plaintiffs to cross-examine witness DW-2 Satpal s/o Avtar
Singh, firstly before the defendants No.1, 2 and 5, had been dismissed.

Now, it is submitted by learned counsel for the petitioners that
respondents No.1, 2 and 5, who are plaintiffs before the lower Court, had

filed a suit for declaration that they themselves and defendant No.17, are the

co-sharers/co-owners in the joint possession of 1/3rd share (subject to the transfers/alienations, if any, effected by Sh.Gurdial Singh, their predecessor, the original owner) of land measuring 203 Kanals 1 Marla, as detailed in the head note of the plaint. The copy of the plaint has been annexed as Annexure P-2. Also, it is submitted that the petitioners, who are defendants No.1, 2 and 5, are contesting the claim of the plaintiffs. However, defendant No.12-Sat Pal Singh s/o Avtar Singh, does not dispute the claim of the plaintiffs. The copy of the written statement filed by Sat Pal Singh is Annexure P-3. In paragraph 12 of the written statement, he has categorically admitted about the claim of the plaintiffs and defendant No.17-Kulwant Singh, to be having 1/3rd share of the land belonging to Gurdial Singh s/o Nihal Singh, their predecessor. Such being the pleadings, it is further submitted by learned counsel for the petitioners that at the time when Sat Pal Singh had stepped into witness box as DW-2, an application was filed by the present petitioners, who are contesting defendants before the lower Court, for issuance of direction to the plaintiffs to cross-examine DW-2 Sat Pal Singh s/o Avtar Singh, firstly, before defendants No.1, 2 and 5.

Now, it is submitted by learned counsel for the petitioners that the above-said application has been dismissed vide impugned order dated 04.02.2020 by simply observing that interest between the defendants *inter se* being in conflict, the other defendants are entitled to cross-examination and therefore, defendants No.1, 2 and 5, have right to cross-examine the said witness, as per law. The set procedure, as such has been followed. Learned counsel for the petitioners has relied upon judgment passed by this

(36) RCR (Civil) 586 and submits that the petitioners, who are contesting defendants, have a right to protect their interest and for this reason, the plaintiffs are required, at first instance, to cross-examine defendant No.12, who has stepped into witness box as DW-2 and who does not dispute the claim of the plaintiffs.

Keeping in view the averments of the written statement, so filed, by defendant No.12-Sat Pal Singh, who has now stepped into witness box as DW-2, it is pertinent to mention that he does not contest the claim of the plaintiffs and in these circumstances, to protect the interest of the contesting defendants i.e. the present petitioners, in the manner of conducting of cross-examination, when defendant No.12-Sat Pal Singh has stepped into witness box as DW-2, it is required that the plaintiffs shall have a first right to cross-examine, so that, even if anything adverse to the contesting defendant is brought forth, through leading questions by the plaintiffs, the defendant can protect himself from such answers, by a right of cross-examination, after the plaintiffs' cross-examination is over.

Considering the same, the impugned order dated 04.02.2020 passed by learned Civil Judge (Jr. Divn.) Batala, is set aside and the plaintiff, as such, is hereby required to cross-examine DW-2 Sat Pal Singh, at first instance and petitioners shall conduct their cross-examination, only thereafter.

The present revision petition stands allowed accordingly.

December 21, 2021
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No