

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

**C.R. No. 1802 of 2021**  
**Date of decision: 06.09.2021**

123

Ramandeep Singh

....Petitioner(s)

Versus

Smt. Jasbir Kaur and others

...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA**

Present: Mr. Ashwani Bakshi, Advocate,  
for the petitioner.

**G.S.SANDHAWALIA, J. (Oral)**

The present revision petition has been filed under Article 227 of the Constitution of India whereby, the plaintiff-petitioner challenges the order dated 03.08.2021 (Annexure P-6) whereby, his request for recalling DW-3 Makhan Lal has been rejected though the application was allowed qua summoning of DW-4 Parmit Kaur.

Counsel for the petitioner has vehemently submitted that the said person was a witness to the cancellation deed of the Will dated 09/10.04.1997 and, therefore, was a summoned witness of the defendant and had put in appearance on 25.02.2020. At that point of time, counsel for the petitioner was not prepared for proper cross examination of the said witness. It is submitted that the testator, as such, had expired on 21.07.2001 and the Will was cancelled on 06.06.2001 but the registration was done on 15.06.2001. It is submitted that, thus, appropriate questions could not be put to the said witness.

A perusal of the impugned order dated 03.08.2021 (Annexure P-6) passed by the Additional Civil Judge (Sr. Divn.), Jind would go on to show that the trial Court did not accept the fact that counsel for the plaintiff was forced by the Court to cross examine the defendant witnesses on the very same day. It is to be noticed that after 25.02.2020 (Annexure P-4), the date the testimony of the said witness DW-3 Makhan Lal Pahwa had been recorded, the case was adjourned to 29.02.2020, 02.03.2020, 04.03.2020, 06.03.2020, 12.03.2020, 16.03.2020 and 18.03.2020. At no stage, the plaintiff had ever raised the grievance, as such, and the application only thereafter was filed on 21.08.2020 after hearing was resumed post covid-19 lockdown. Accordingly, it was noticed that there are baseless allegations to the extent that the counsel was forced to examine the said witness.

A perusal of the plaint would go on to show that the suit is for declaration. The cancellation of the Will was challenged by the petitioner, which had been executed by his grand father on an earlier occasion on 09/10.04.1997, which was also registered. The cancellation deed had, thus, been challenged. The plaintiff was well aware that DW-3, who is now sought to be re-examined, was a witness of the cancellation deed, which is subject matter of challenge.

A perusal of the cross examination (Annexure P-4), which has been done by the counsel, would go on to show that all appropriate questions have been elicited from the witness in question, who is an Ex. M.C. The questions regarding the condition of health of Avtar Singh were also asked as to whether he was in a good mental shape and the witness was frank enough to state that on both 06.06.2001 and 15.06.2001, Avtar Singh was unable to walk. It is obvious that in such circumstances, Tehsildar had

visited the house of the Testator for the purposes of the execution of the cancellation deed and for the registration of the same. It is not disputed that the suit is of the year 2004. The trial Court had given importance to the said suit on account of its long pendency and has granted as many as 7 short dates, as noticed above, to dispose of the case.

The present application filed was only an attempt, as such, to further delay the decision of the suit and stretch it to its maximum length to harass one and all the parties to the proceedings. The application is apparently misconceived. There is no ground for interference under Article 227 of the Constitution of India and accordingly, the present revision petition stands dismissed in limine.

06.09.2021  
shivani

(G.S. SANDHAWALIA)  
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No