

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

CR-3529-2021

Date of Decision: December 23, 2021

Swaranjit Singh and others

...Petitioners

VERSUS

Resham Singh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr. Priyanshu Kamra, Advocate
for the petitioners.

ARCHANA PURI, J.

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

Through the present revision petition, the petitioner has assailed the order dated 12.11.2021 (Annexure P-5), vide which, an application filed by the petitioner for cross-examination of his own witness, who had turned hostile, has been dismissed.

A perusal of the record reveals that suit titled as 'Resham Singh vs. Basant Singh and others' was filed by the plaintiff for seeking decree of separate possession by way of partition of the property and also for seeking permanent injunction. When the case was at the stage of recording of defence evidence, defendants examined Balwinder Jassal, Draftsman as DW-4 and in his examination-in-chief, he tendered into evidence affidavit

Ex.DW/4 with document i.e. original site plan, which is Ex.DW4/1. He was cross-examined by the counsel for the plaintiff on 12.10.2021. However, an application under Section 151 CPC was filed by the defendants, thereby making prayer for cross-examining the said witness Balwinder Jassal, Draftsman. In the application, it was stated that Balwinder Singh, Draftsman turned hostile deliberately but there is no compromise at all between the parties and as such, cross-examination of the said witness is very much essential and permission was sought to cross-examine the said witness. Reply was also taken by the Court, wherein, the plaintiff-respondent has disputed the maintainability of the said application. After hearing learned counsel for the parties, vide impugned order, the said application was dismissed.

Now, learned counsel for the petitioner submits that the witness had turned hostile, therefore, the Court was required to declare the said witness as hostile and provide an opportunity to the petitioner, to cross-examine the said witness. However, as detailed aforesaid, in the examination-in-chief, an affidavit was tendered by the said witness, which is DW4/1. Copy of the said affidavit has been placed on record as Annexure P-1. A perusal of the same reveals that in this affidavit, the said witness had stated that he had visited the spot, took measurements and prepared the site plan dated 04.10.2021 and this site plan is correct. All the notes appearing on the same are in his hand and the site plan also bears his signatures and seal. Thus, it is evident that in the affidavit, the said witness has deposed, in consonance with the version of the defendants. However, cross-examination of the said witness reveals that he had stated that he prepared

the site plan Ex.DW4/1 on the asking of defendant-Swaranjit at his Jagraon

office. Learned counsel for the petitioner submits that this line has been wrongly stated by the witness. However, there is nothing, as such, coming on record, about this statement to have been wrongly stated, as there is last concluding line, that this is false that 'I have deposed falsely'. Something coming against the petitioner-defendant, in the cross-examination, does not ipso facto lead to the conclusion that witness has turned hostile, when the witness had supported the version of the petitioner, in his examination-in-chief and it is so evident, from the recitals of the affidavit Ex.DW4/1, so it cannot, in any manner, be said that the witness has turned hostile.

Keeping in view the same, learned lower Court has rightly dismissed the application, while passing the impugned order, which calls for no interference.

Hence, finding no merit in the present revision petition, the same is hereby dismissed.

(ARCHANA PURI)
JUDGE

December 23, 2021
Vgulati

Whether speaking/reasoned	Yes
Whether reportable	No