

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

203

CR-1568-2018

Decided on : 24.03.2022

Amandeep

... Petitioner(s)

Versus

Davinderpal Kaur and others

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Ms. Sandeepa Mehta, Advocate
for the petitioner(s).

Mr. Karunash kaushal, Advocate
for respondent No.1.

MANJARI NEHRU KAUL, J. (Oral)

The instant revision petition has been filed under Article 227 of the Constitution of India, for setting aside the order dated 20.01.2018 (Annexure P-4), passed by the Court of Civil Judge (Jr. Divn.), Dabwali, vide which an application filed by the petitioner/defendant No.1 for examining the witnesses mentioned therein through video conferencing was declined.

Learned counsel contends that in the suit in question, which was filed for declaration and permanent injunction by the plaintiff/respondent No.1, the petitioner/defendant No.1 wanted to prove the Will of her father Sukhdev Singh Chawh, executed in her favour on 08.03.2006 in United States of America (in short 'USA'). It was submitted that the said Will was drafted by one Mr. Richard J., who was also a witness to the said Will. However, he was unable to travel to India for deposing as a witness on behalf of the petitioner/defendant No.1, as he was about 85 years of age. The other attesting witness to the Will, Amanda was also not in a

position to travel on account of her ill health. Learned counsel submitted that the Court below while passing the impugned order (Annexure P-4) failed to appreciate and take into account that since they all including the petitioner/defendant No.1 were living in USA, it would be extremely difficult for them to undertake the long journey for getting their evidence recorded and also erred in ignoring the fact that they were all material witnesses.

Learned counsel, who entered appearance on behalf of respondent No.1, while vehemently opposing the prayer and submissions made by the counsel opposite, submitted that except for the bald submissions made by the petitioner/defendant No.1 that the two material witnesses i.e. the Richard J. and Amanda, were keeping indifferent health and were thus unable to undertake the long journey to India, the petitioner/defendant No.1 had not placed on record any document in support of the ill health of both the material witnesses. He further submitted that the application, which was filed before the Court below, seeking recording of the evidence through video conferencing of petitioner/defendant No.1 and two others, had not even been moved by the petitioner/defendant No.1, but by some third person, who was not even a party to the suit and had not even been signed or verified by the petitioner/defendant No.1. It was also submitted that since the petitioner/defendant No.1 had executed a General Power of Attorney (for brevity 'GPA') in favour of her mother, who admittedly was living in India, there was nothing which prevented her neither from stepping into the witness-box to depose on behalf of the petitioner/defendant No.1. Besides this, learned counsel for respondent No.1 submitted that petitioner/defendant No.1 was avoiding traveling to

India on account of her involvement in a number of criminal cases, wherein, she had allegedly defrauded persons in India by executing various agreements with them.

I have heard learned counsel for the parties and perused the relevant material on record.

The impugned order comes across as a well reasoned one, which does not warrant any interference. Since it has not been disputed by the learned counsel for the petitioner/defendant No.1, that the petitioner/defendant No.1 has executed a GPA in favour of her mother, who is living in India, this Court fails to comprehend as to why the petitioner/defendant No.1 requires to get herself and the other defendants examined through video conferencing. Moreover, the application on the basis of which the impugned order (P-4) was passed, has not even been filed, signed or verified either by the petitioner/defendant No.1 or her mother, being her GPA.

Accordingly, finding no merit in the revision petition, same stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

March 24, 2022

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*