

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

122

CR-818-2022

Date of decision: 09.08.2022

M/s S.K. Associates and another

.....Petitioners

Versus

Vinod Kumar Jairath and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Amit Jain, Sr. Advocate with
Mr. Karanbir Singh, Advocate
for the petitioners.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioners/defendants No.1 and 2 are impugning the order dated 09.11.2021 passed by learned Civil Judge (Sr. Divn.), Jalandhar vide which an application filed under Order 18 Rule 3-A of the Code of Civil Procedure, 1908 (for short, 'the Code') by respondents No.1 and 2/plaintiffs was partly allowed.

Learned senior counsel for the petitioners *inter alia* contends that the impugned order is contrary to the letter and spirit of Order 18 Rule 3-A of the Code. He submits that the trial Court failed to appreciate that Order 18 Rule 3-A of the Code categorically lays down a general rule that a party must first examine itself before examining any other witness. However, this mandate can only be departed with, by the leave of the Court and that too only if cogent and sufficient reason is made out by the party. Learned senior counsel further submits that the respondents were deliberately trying to withhold themselves from being examined in order to fill up lacuna in the evidence at a later stage. Further, no cogent or germane reason had been brought forth by the respondents/plaintiffs to examine other witnesses first.

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

To deal with the issue at hand, it would be relevant to reproduce Order 18 Rule 3-A of the Code which reads as under:-

"Order XVIII. Hearing of the suit and examination of witnesses.

3.A. Party to appear before other witnesses.-

Where a party himself wishes to appear as a witness, he shall so appear before any other witness on his behalf has been examined. Unless the Court, for reasons to be recorded, permits him to appear as his own witness at a later stage."

The aforementioned provision sets out a general rule that parties wishing to appear as witness shall appear before the examination of any other witness. However, it also carves out an exception to the general rule that the Court may, after recording reasons, permit such party to appear as witness, at a later stage.

In the instant case, the respondents/plaintiffs contended that the alleged guarantee agreement dated 02.02.2015 was a forged and fabricated document and did not even bear their signatures. Therefore, in order to prove the alleged forgery, the original documents were sought to be produced first. In the circumstances, it cannot be said that the trial Court had erred while passing the impugned order by observing that the respondents/plaintiffs would be able to depose qua these documents after they were produced first, as in their absence, complete examination of the respondents/plaintiffs would not be possible.

The apprehension of the petitioners that the respondents/plaintiffs would try to fill up the lacuna at a later stage, is

misconceived as admittedly the documents are official bank records which would be necessary for effective examination of the respondents/plaintiffs.

In the above facts and circumstances, this Court does not find any merit in the instant revision petition and the same is dismissed in *limine*.

09.08.2022

(MANJARI NEHRU KAUL)
JUDGE

Vinay

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