

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

**CR-2795-2019 (O&M)
Date of decision-23.11.2022**

Krishan Gopal Aggarwal

...Petitioner

Vs.

Arya Pratinidhi Sabha (Regd.), Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Dhirinder Chopra, Advocate for the petitioner.

Mr. Amit Jain, Senior Advocate with
Mr. Karanbir Singh, Advocate for respondent No.1.

Ms. Sandhya Gaur, Advocate for
Mr. Raghav Gulati, Advocate for respondent No.4.

None for respondents No.2, 3 & 5 to 11.

MANOJ BAJAJ, J. (Oral)

Petitioner (plaintiff No.2) has filed this revision petition under Article 227 Constitution of India to challenge the order dated 01.03.2019 passed by Additional Civil Judge (Senior Division), Moga in Civil Suit No.1135/2014 dated 01.07.2014 titled 'Satya Paul Gupta and another Vs. Arya Pratinidhi Sabha (Regd.) and others', whereby his application seeking recalling of defendant's witness, namely, Ashwani Kumar Sharma (DW-1) for cross-examination, has been dismissed.

Learned counsel for the petitioner has argued that the suit by

the plaintiffs seeking declaratory decree relates to the validity of Constitution of D.M. College Managing Committee (Regd.), Moga, wherein both the plaintiffs are life members. He further submits that during the evidence of the defendants, DW-1 Ashwani Kumar Sharma was examined as a witness, who was cross-examined by plaintiff No.1. He submits that plaintiff No.2 independently wants to cross-examine the said witness, but the trial Court has erroneously dismissed the said application. According to the learned counsel, though he had prayed for separation of the suit, but the said prayer is not being pressed. He prays that the petitioner be allowed to cross-examine DW-1.

During the course of hearing, it is not disputed by learned counsel for the parties that the examination-in-chief of DW-1 was conducted on 17.02.2017, who was partly cross-examined on 28.04.2017, and his further cross was deferred for 12.05.2017 as the Court time was over. Admittedly, on 12.05.2017, application by plaintiff No.2 seeking recalling of DW-1 was filed, whereupon the impugned order has been passed.

After considering the material on record, including the zimni orders passed by the trial Court, it becomes clear that the cross-examination of DW-1 Ashwani Kumar Sharma was never concluded on 28.04.2017 and after that the said witness was not offered for completion of cross-examination. Thus, it is evident that the plaintiffs have a right to complete the cross-examination of said Ashwani Kumar Sharma, and in this background, the issue raised in this revision petition regarding recalling of this witness for further cross-examination pales into insignificance.

Resultantly, the impugned order is set aside and defendants are directed to produce the said witness for the purposes of completion of cross-examination by the plaintiffs.

Revision petition is allowed.

(MANOJ BAJAJ)
JUDGE

23.11.2022

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No