

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

**CR-2227-2022
Date of Decision : 24.08.2022**

Balkar Singh

..... Petitioner

Versus

General Public and others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Gurbachan Singh Bhatia, Advocate
for the petitioner.

MANJARI NEHRU KAUL, J

The instant petition has been filed under Article 227 of the Constitution of India for setting aside of the order dated 17.11.2021 (Annexure P-5) vide which an application filed by respondent No.2 for recording of the evidence of the witnesses through video conference (in short 'VC') was allowed by the Court below.

Learned counsel appearing for the petitioner submits that the impugned order suffers from material irregularity and it being contrary to the principles of a fair trial, deserves to be set aside.

Learned counsel for the petitioner has vehemently argued that the trial Court failed to invoke the provisions of Order 32-A of the CPC after completion of pleadings as no such efforts for settlement between the parties were made. He has contended that the application filed before the Court below was not even supported by any affidavit. He has further submitted that there was no provision for recording of evidence through VC

in the CPC, therefore, the impugned order was not sustainable. Learned counsel has submitted that during the pendency of the suit in-question, though respondent No.2 had visited India on multiple occasions, still she did not turn up for her deposition before the Court below. It has been submitted that physical cross-examination of the witnesses would be necessary so that the body language, tone and tenor of their deposition could be observed by the Court, else grave prejudice would be caused to the petitioner.

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

The petitioner is impugning the order vide which an application moved by respondent No.2 for recording her evidence as well as her other witnesses through VC by way of skype or any other electronic computer internet application has been allowed. No doubt, the examination of witnesses through VC cannot be allowed casually and in a routine manner. However, in the facts and circumstances of a case, where it would be inconvenient or even otherwise undesirable for a person to put in appearance before the Court, such permission can indeed be granted. The relevant consideration for deciding such an application should be that it must further the cause of justice without causing any disadvantage to the parties.

Adverting to the case in hand, the Will dated 28.02.2014 was scribed and executed in UK. Further, respondent No.2 and the attesting witnesses are admittedly permanent residents of UK and are gainfully employed there. The respondent has specifically pleaded in her application

(Annexure P-3) that on account of exigencies of duties, applicant-respondent No.2 and attesting witnesses of the Will would be unable to visit India for recording of their evidence. It would, therefore, be inconvenient for respondent No.2 and other witnesses to travel to India without incurring heavy expenditure. Furthermore, this Court does not concur with the submissions of the learned counsel that examination of witnesses through VC would prejudice the case of the petitioner. It goes without saying that respondent No.2 and other witnesses would be duly identified by the counsel for the respondent and the petitioner would also get sufficient opportunity to cross-examine the said witnesses.

The contention of the learned counsel that provisions of Section 32-A of the Code of Civil Procedure were not complied with cannot be gone into as the scope of this revision petition is limited to examining the validity or otherwise of the impugned order.

As a sequel to the above, this Court has no hesitation in observing that the impugned order does not warrant any interference. However, it is expected of the trial Court to record the evidence of the witnesses through VC as per the “VC guidelines issued by the Punjab & Haryana High Court”.

Dismissed.

24.08.2022

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**(MANJARI NEHRU KAUL)
JUDGE**

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No