

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

Sr. No.140

CR-2445-2022

Date of Decision: 04.07.2022

DINESH KUMAR

...Petitioner

VERSUS

RIMPI RANI AND ORS.

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr. Surinder Garg, Advocate,
for the petitioner.

ARCHANA PURI, J.

Present revision petition has been filed, thereby seeking setting aside of the order dated 02.05.2022 (Annexure P-5) passed by learned Additional Civil Judge (Senior Division), vide which, an application filed by the petitioner for recalling the plaintiff/respondent No.1, examined as PW-1, for further cross-examination, has been dismissed.

Now, it is submitted by learned counsel for the petitioner that Rimpi Rani, respondent No.1 had filed a suit for possession by way of partition to the effect that half share of the house, as detailed in the head note of the plaint and also challenged the transfer deed No.5803 dated 04.02.2013, regarding her 1/3rd share, and further sought issuance of permanent injunction to restrain the defendants from alienating the more valuable portion or specific portion of the disputed house.

It is also submitted that witness, Rimpi Rani, was examined as PW-1, but however, she was not fully cross-examined on the pleas, which had been taken in the written statement. Thus, in the interest of justice, it is submitted that one opportunity be given for conducting the further cross-examination of PW-1.

Perusal of the impugned order reveals that applicant-respondent (defendant No.3), has filed the present application for recalling of the Rimpi Rani, PW-1. Even though the statement of PW-1 has not been placed on record, but however, her statement has been reproduced in verbatim by the petitioner, in the grounds of revision, which reveals that it is an exhaustive cross-examination conducted by learned counsel for the petitioner. Effective opportunity, as such, had been granted and the same had been availed by the petitioner and exhaustive cross-examination had been conducted.

In the light of the same, it cannot be said that due to inadvertence, the vital questions relating to the plea of the present petitioner has not been put to the witness in question. In fact, in the impugned order , it has also been observed that it was on 12.11.2021, PW-1, Rimpi Rani was present and was cross-examined by learned counsel for the defendant. It was only on 03.12.2021, when the new counsel appeared for defendant No.3, i.e. petitioner, thereafter an application seeking further cross examination had been filed. It was only on account of change of counsel that the present petitioner had started claiming that some vital questions have not been put to the witness, and therefore, she be recalled again for the purposes of cross-examination. However, on account of change of counsel, the case of recalling of the witness cannot be made out, more particularly, when the exhaustive cross-examination had already been conducted. The litigant has to remain vigilant, vis-a-vis, the claim so putforth by him in the pleadings and to conduct effective cross-examination of the witness concerned, at the relevant time, when the witness is produced for cross-examination.

In the light of the same, the impugned order calls for no interference by way of present revision petition. As such, the same is hereby dismissed.

(ARCHANA PURI)
JUDGE

04.07.2022
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Whether speaking/reasoned	No
Whether reportable	No