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

CR-2823-2022 (O&M)

Date of decision : 21.07.2022

Janta Singh and others

...Petitioners

Vs.

Harbans Singh

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Digvijay Nagpal, Advocate for the petitioner.

MANOJ BAJAJ, J.

Petitioners have filed this revision petition to assail the order dated 13.05.2022 (Annexure P-2) passed by Civil Judge (Senior Division), Budhlada, District Mansa, whereby their application filed under Order XVIA CPC for issuing production warrant of Gurcharan Singh, was dismissed.

The brief facts of the case are that the plaintiffs filed a suit for permanent injunction in respect of the suit property mentioned in the head note of the plaint against their brother-Harbans Singh (respondent) claiming themselves to be owner to the extent of 2/3rd share on the basis of written agreement dated 18.06.2013 and prayed for a decree to restrain the defendant from using the electricity connection for irrigation or getting the said connection dis-connected without the consent of the plaintiffs. The suit is being contested by the respondent.

During the suit proceedings, the plaintiffs adduced their

evidence, and also moved an application under Order XVIA Code of Civil Procedure for producing Gurcharan Singh son of Dharam Singh, who is confined in District Jail Mansa as plaintiff's witness to prove the written agreement dated 18.06.2013. The application was dismissed by Civil Judge (Senior Division), Budhladha vide impugned order dated 13.05.2022.

Learned counsel has argued that the witness sought to be produced before the Court is material witness, who is signatory to the written agreement/settlement between the parties, who are sons of Soun Singh. As the plaintiff is unable to bring this witness on his own, who is presently facing prosecution in case FIR No.73 dated 05.10.2014 registered under Section 302 IPC and 27 Arms Act, 1959 and is confined in prison, therefore, he could be summoned through Court, but the Court on the basis of untenable reasons dismissed the application for producing him. According to him, in case the witness is allowed to be produced before the Court, no prejudice would be caused to the other side, who can cross-examine the witness. He prays that the impugned order be set aside.

During the course of hearing, it is not disputed by learned counsel that the agreement where witness is stated to be a signatory has already been brought on record of the civil suit by way of evidence and this document stands exhibited.

After hearing learned counsel and considering the submissions made by learned counsel, this Court is of the opinion that the examination of Gurcharan Singh as plaintiff's witness does not appear to

be justified, much less with respect to the agreement dated 18.06.2013, which admittedly stands exhibited. A perusal of the impugned order reveals that the said document was not objected to by the other side, therefore, in the absence of any justifiable reason, there is no ground to summon the said witness for any other purpose. The impugned order does not suffer from any illegality or impropriety.

Consequently, petition is dismissed.

(MANOJ BAJAJ)
JUDGE

21.07.2022

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