

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

297

CR No. 4242 of 2022 (O & M)

Date of decision : 14.11.2022

Belbinder Chahal

.....Petitioner

Vs.

Major Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Shobit Phutela, Advocate and
Ms. Rishika Arora, Advocate, for the petitioner

None for the respondents

TRIBHUVAN DAHIYA, J. (Oral)

1. Learned counsel for the petitioner states that service on respondents no.3 and 4, who are proforma, may be dispensed with.
2. Ordered accordingly.
3. Respondents no.1 and 2 have been served through counsel but there is no representation on their behalf.
4. This is a petition filed under Article 227 of the Constitution of India for setting aside the order dated 16.8.2022 (Annexure P-4) whereby the petitioner/plaintiff's application for examining him as well as the attesting witness before the trial Court in virtual mode has been declined.
5. The petitioner/plaintiff (hereinafter referred to as 'the plaintiff') filed a suit for declaration claiming exclusive ownership and possession over the suit property on the basis of Will dated 13.11.2014. Both, the plaintiff Belbinder Chahal and attesting witness Sukhdev Singh, are permanent residents of the United Kingdom and not in a position to come to India. Therefore, they moved an application, Annexure P-2, before the trial Court seeking permission for recording their testimonies through video conferencing. The application was declined by the trial Court, vide order dated 16.8.2022, by holding that

examination through video conferencing cannot be permitted since the allegations pertain to forgery of the Will and testimony of the witnesses is required to be seen and noted.

6. Learned counsel for the petitioner states that after passing of the impugned order, plaintiff Belbinder Chahal came to India and was examined as well as cross-examined before the trial Court on 16.9.2022. Now only the attesting witness Sukhdev Singh remains to be examined, who is permanently settled in the UK and working there. His work schedule does not permit him to come to India. Even otherwise, hardships can be avoided to the attesting witness by permitting his examination through video conferencing.

7. As apparent from the above submissions, the plaintiff duly testified before the Court and was cross-examined also. It is only the attesting witness who remains to testify before the trial Court and the application effectively is for him only. There is no denying effect that he is permanently settled in the UK. With the advancement of technology, there should not be any problem in case he is allowed to testify before the trial Court virtually where his demeanour can also be noted by the Court, in case so required.

8. Therefore, this petition is allowed, and the order passed by the trial Court dated 16.8.2022 is set aside to the extent examination of the attesting witness, Sukhdev Singh, through video conferencing has been declined. An opportunity is granted to the witness to testify before the trial Court in virtual mode on a date to be fixed by the trial Court, after due notice to all concerned.

(TRIBHUVAN DAHIYA)
JUDGE

14.11.2022

Ashwani

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No