

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

112

**CR No.5561 of 2022
Date of Decision: 30.11.2022**

Jagdish Kumar

...Petitioner

Versus

Amar Kumar and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present :- Mr. Rajan Bansal, Advocate
for the petitioner.

MEENAKSHI I. MEHTA, J. (Oral)

By way of the instant revision-petition, the petitioner-defendant No.9 (here-in-after to be referred as 'defendant No.9') has laid challenge to the order dated 10.11.2022 (Annexure P-6) passed by learned Additional Civil Judge (Senior Division), Malout (for short 'the trial Court'), whereby the application (Annexure P-3) moved by him with a prayer to recall the witnesses namely Amar Kumar (PW5) and Bimla Devi (DW1) for their further examination so as to prove the execution of the Pronote and the Receipt dated 27.02.1965 as well as the Agreement dated 10.01.1962, has been dismissed.

2. I have heard learned counsel for the petitioner-defendant No.9, at the preliminary stage, in the present revision petition and have also perused the file carefully.

3. Learned counsel for defendant No.9 contends that the above-mentioned documents were not available with defendant No.9 earlier and rather, he came across the same while searching his house and the further examination of the afore-named witnesses in respect of these documents is necessary for the proper adjudication of the dispute between the parties and in these circumstances, the impugned order is not legally sustainable and hence, the same deserves to be set-aside.

4. However, I find the above-raised contentions to be bereft of any merit because the afore-said documents bear the dates 27.02.1965 and 10.01.1962 respectively. Defendant No.9 had filed his written statement Annexure P-2 and the same is shown to have been signed on 03.08.2009 and thus, he has moved the above-said application dated 10.10.2022, more than thirteen (13) years after filing his written-statement. Moreover, the trial Court has categorically observed in Para No.5 in the impugned order that defendant No.9 did not mention about these documents in his written statement or at the time of cross-examining the afore-said witnesses and the examination of PW5 Amar Kumar was concluded on 20.02.2018 and the depositions of DW1 Bimla Devi were completed on 21.07.2022 and defendant No.9 had been given sufficient opportunities to cross-examine them. To add to it, the plea set-forth by defendant No.9 in his application Annexure P-3 to the effect that the above-referred documents were found from his own house, in itself, speaks volumes of the fact that he had failed to exercise due diligence to bring the same on the record despite the fact that the same were in his possession.

5. As a sequel to the fore-going discussion, it follows that the impugned order does not suffer from any illegality, infirmity, irregularity or perversity so as to warrant any interference by this Court. Resultantly, the present revision petition, being *sans* any merit, stands dismissed.

30.11.2022
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(MEENAKSHI I. MEHTA)
JUDGE

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