

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(204)

CR No. 7988 of 2018
Date of Decision : 12.04.2023

Sumana Devi and others

...Petitioners

Versus

Sohagwanti (deceased) through L.Rs. and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vikas Mohan Gupta, Advocate for the petitioners.

Mr. Puneet Sharma, Advocate for the respondents.

Harsimran Singh Sethi J. (Oral)

The present civil revision has been filed challenging the order dated 30.05.2018 (Annexure P-1) by which, the application filed by the petitioners-plaintiffs that in case any of the defence witness is to be cross-examined by the co-defendant, the same has to be done prior to the cross-examination to be done by the petitioners-plaintiffs, has been dismissed.

Learned counsel for the petitioners-plaintiffs argues that in the present case, the stand of all the respondents-defendants is against the petitioners-plaintiffs with regard to the prayer in the suit, wherein the petitioners-plaintiffs are seeking declaration to the effect that they are owners and in joint possession of 1/6th share each of the land in question, the detail of which has been given in the heading of the suit. Learned

counsel for the petitioners-plaintiffs argues that as the respondents-

defendants had a same stand qua the petitioners-plaintiffs hence in case, any of the defence witness is cross-examined by the petitioners-plaintiffs first and then by the respondents-defendants, the petitioners-plaintiffs will not have the right to clarify the statement of the witness recorded while being cross-examined by the co-defendant and same will cause prejudice to the plaintiff. Learned counsel submits that keeping in view the said prejudice, a Co-ordinate Bench of this Court while passing order in CR No. 4298 of 2012 titled as ***Mohinder Singh Gill Vs. Jagdeep Singh and others***, decided on 27.11.2012 held that in case, any defence witness is to be cross-examined by co-defendant, the same has to be done in preference to the plaintiff.

Learned counsel for the respondents-defendants, on the other hand, submits that as no prejudice has been shown in the present case, the prayer of the petitioners-plaintiffs that the defence witness be cross-examined by the defendant first as compared to the plaintiff, is liable to be rejected.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Keeping in view the settled principle of law settled by the Co-ordinate Bench of this Court in ***Mohinder Singh Gill's case (supra)*** that in case defence witness is to be cross-examined by the other defendants, the said right has to be exercised in preference to the plaintiff so that any statement of the defence witness on the cross-examination by other defendant, can be tackled by the plaintiff in case need so arises. Hence, the impugned order dated 30.05.2018 passed by the trial court is contrary to the

law laid down in *Mohinder Singh Gill's case (supra)* and cannot be sustained and the same is accordingly set-aside. It is directed that in case, any of the defence witness is to be cross-examined then the same will be done by the defendants first in preference to the petitioners-plaintiffs.

Civil revision petition is allowed in above terms.

April 12, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No