

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

115

**CR No.1125 of 2023
Date of Decision: 20.02.2023**

Lajwanti Devi

...Revisionist-Petitioner

Versus

Kiran Hooda and another

...Respondents

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

Present:- Mr. Vinay Kumar Pandey, Advocate
 for the revisionist-petitioner.

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MEENAKSHI I. MEHTA, J. (Oral)

By way of the instant revision-petition, the petitioner-defendant No.2 (here-in-after to be referred as 'defendant No.2') has laid challenge to the order dated 07.02.2023 passed by learned Civil Judge (Junior Division), Gurugram (for short 'the trial Court') in the Civil Suit bearing No.17974 of 2014, whereby the application (Annexure P-4), as moved by her for seeking the permission to file/submit her additional affidavit, for being read in her examination-in-chief, has been dismissed.

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

3. The petitioner-defendant No.2 intends to submit her additional affidavit for producing the application dated 14.11.2014, as claimed to have been moved by her to the SDO, Sub Division Kadipur, DHVBN, in her evidence. Though in the affidavit initially tendered by her in her examination-in-chief, she omitted to make the depositions in respect of the said application

but keeping in view the fact that in case, she is deprived of the opportunity to produce the same on the record, she may suffer an irreparable loss that may further result in the mis-carriage of justice, this Court is of the considered opinion that it would be in the fitness of the things and the ends of justice will also be best served if she (defendant No.2) is allowed to submit her additional affidavit, qua the above-mentioned application, for being read as a part of her examination-in-chief but subject to the payment of cost to respondent No.1-plaintiff and also with the observations that the objections (if any), as may be raised by the plaintiff qua the said application, would be decided by the trial Court at the appropriate stage.

4. Resultantly, without issuing the notice to the respondents so as to avoid any further delay in the trial of the said Civil Suit and also to avert the expenses that they (respondents) may have to incur to defend in this revision petition, the impugned order dated 07.02.2023 is set-aside and the revision petition in hand is hereby disposed of with a direction to the trial Court to afford only one effective opportunity to defendant No.2 to submit her afore-said additional affidavit but the payment of the cost of Rs.7,500/- to respondent No.1-plaintiff shall be a condition precedent for doing so and in case of the default on her part in submitting her additional affidavit or in the payment of the cost on the date as may be fixed by the trial Court, she shall not be entitled to any further opportunity for this purpose. It is also worthwhile to specify here that the plaintiff shall be at liberty to raise the objections qua the relevance, admissibility and the mode of proof of the said application dated 14.11.2014, as may be legally permissible to her and the same shall be decided by the trial Court, in accordance with law, at the relevant stage.

6. It is also further clarified that in the eventuality of any of the respondents feeling aggrieved by this order, she shall be at liberty to move an appropriate application to contest the instant revision petition.

20.02.2023
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(MEENAKSHI I. MEHTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>