

CM-12200-CII-2023 in/and
CR-2583-2022 (O&M)

1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(122+303)

CM-12200-CII-2023 in/and
CR-2583-2022 (O&M)
Date of Decision:13.09.2023

Manjit Kaur

.....Applicant/Petitioner

Versus

Balwant Singh

.....Non-applicant/ Respondent

CORAM: *HON'BLE MR. JUSTICE VIKRAM AGGARWAL*

Present: Mr. Ramesh Sharma, Advocate
for the applicant/petitioner.

Mr. Amit Dhawan, Advocate
for the non-applicant/respondent.

VIKRAM AGGARWAL, J. (ORAL)

CM No.12200-CII-2023

Prayer in the present application is for permission to place on record the receipt dated 13.07.2023 (Annexure A-1), indicating that the costs imposed vide order dated 21.02.2023 have been deposited and to place on record the residential address and mobile number of PW-2/Ranjit Singh.

For the reasons mentioned in the application, the same is allowed and Annexures A-1 & A-2 are taken on record.

CR-2583-2022

1. The present revision petition assails the order dated 04.05.2022 passed by the Civil Judge (Junior Division), Nakodar, vide which the request made by the petitioner-plaintiff to conduct cross-examination of PW-2/Ranjit Singh through video conferencing was declined and evidence of the plaintiff was closed by order.

2. A Civil Suit for possession by way of specific performance of agreement to sell dated 04.06.2014 was filed by the present petitioner-plaintiff. Issues in the said case were framed on 03.01.2018. On 24.04.2018, the petitioner-plaintiff appeared as PW-1 and one Ranjit Singh who is stated to be the marginal witness of the agreement to sell appeared as PW2. Their affidavits were tendered in their examination-in-chief and cross-examination was deferred. Thereafter, PW-2/Ranjit Singh did not appear for cross-examination despite the grant of a number of opportunities. Eventually, an application was filed by the petitioner-plaintiff for conducting the cross-examination of PW-2/Ranjit Singh through video conferencing. The said application was dismissed by the trial Court vide impugned order dated 04.05.2022 and evidence of the petitioner-plaintiff was also closed leading to the filing of the present revision petition.

3. I have heard learned counsel for the parties and have perused the paper book.

4. Learned counsel for the petitioner-plaintiff has contended that the cross-examination of PW-2/Ranjit Singh could not be conducted on account of the fact that he left for Manila and that only one opportunity would be required to conclude his cross-examination through video conferencing. It has been submitted that since PW-2/Ranjit Singh is the marginal witness of the agreement to sell, his evidence would be utmost importance.

5. On the other hand, learned counsel for the respondent-defendant has submitted that despite availing a large number of opportunities, PW-2/Ranjit Singh did not appear in the witness-box for his cross-examination. Reference has been made to the interlocutory orders passed by the trial Court right from the time of framing of issues and it has been submitted that the conduct of the plaintiff and

been submitted that the order passed by the trial Court does not suffer from any illegality.

6. I have considered the submissions made by learned counsel for the parties.

7. The suit was filed in the year 2016 and issues were framed on 03.01.2018. On 24.04.2018, the petitioner-plaintiff Manjit Kaur and PW-2/Ranjit Singh appeared as PW-1 and PW-2 and tendered their affidavits in their examination-in-chief. Their cross-examination was deferred. Thereafter, these witnesses did not appear on most of the dates. On a few dates, some witnesses appeared but they could not be examined. However, it is a fact that more than 30 opportunities were availed by the petitioner-plaintiff but the evidence was not concluded. The application for recording of the cross-examination of PW-2/Ranjit Singh through video conferencing was moved on 04.05.2022 i.e., after more than 04 years after his having tendered his affidavit by way of examination-in-chief. A Co-ordinate Bench of this Court had issued a direction to the petitioner-plaintiff to place on record a photocopy of the passport of Ranjit Singh to show that he had not traveled to India from 24.04.2018 till the date on which the order was passed i.e. 16.08.2022. A copy of the passport was placed on record which is incomplete.

8. During the course of arguments, it has been admitted by learned counsel for the petitioner-plaintiff that PW2/Ranjit Singh did come to India in between but he came for a short time and by that time the present revision petition had also been filed and, therefore, there was no opportunity to file an application for recording of the evidence of PW2/Ranjit Singh.

9. In the considered the opinion of this Court, the petitioner-plaintiff has proceeded with the case with extreme laxity. No doubt, parties should normally

not be non-suited of technicalities and the evidence of PW2/Ranjit Singh would be

important. However, at the same time it has to be borne in mind that innumerable opportunites cannot be granted for leading of evidence. The statute and the law cannot be permitted to be violated with impunity. The present case, in the considered opinion of this Court is not a fit case for the grant of any further opportunity to the petitioner-plaintiff to produce any other witness or even PW2/Ranjit Singh. The trial Court, therefore, did not commit any illegality in declining the prayer made by the petititoner-plaintiff and closing the evidence by order.

In view of the above, I do not find any merit in the present revision petition and the same is accordingly dismissed.

September 13th, 2023
Rekha

(VIKRAM AGGARWAL)
JUDGE

Whether speaking/reasoned : *Yes/No.*
Whether reportable : *Yes/No.*