

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CR-4130-2023

Date of Decision: 25.7.2023

Vijay Pal alias Vijay Pal Singh and another

....Petitioners

VERSUS

Sarbjit Singh Hira and another

....Respondents

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Vishal Gupta, Advocate,
for the petitioner.

KARAMJIT SINGH, J.

Present revision petition has been filed by the petitioners/defendants No.2 and 3 against order dated 10.5.2023 (Annexure P-6) passed by the Court of Civil Judge, Junior Division, Chandigarh in Civil Suit No.CS-CJ/548/2018 titled Sarbjit Singh Hira v. Chandigarh Housing Board and others whereby the application filed by respondent No.1 under Section 138 of Indian Evidence Act for re-examination to produce certificate under Section 65-B of Indian Evidence Act with regard to computer generated photographs, has been allowed.

2. Counsel for the petitioner submits that after testimony of respondent No.1 was completely recorded wherein he produced certain photographs, respondent No.1 filed an application to produce certificate under Section 65-B of Evidence Act by way of his re-examination as per provisions of Section 138 of Evidence Act. He further submits that the said application filed by respondent No.1 is not maintainable. In case, respondent No.1 intended to produce certain documents, then he should

have filed an application for permission to lead additional evidence. Counsel for the petitioner further submits that respondent No.1 moved application in question to fill up lacuna in his case. It is further contended that while passing the impugned order, no liberty has been given to the petitioners to further cross-examine the plaintiff after his re-examination; that in this manner, the impugned order is illegal and is liable to be set aside.

3. I have considered the submissions made by the counsel for the petitioner.

4. From the perusal of Annexure P-3, it is evident that respondent No.1 while appearing in the witness box, produced certain photographs in his examination-in-chief and the same were computer generated. After recording of his testimony, respondent No.1 filed an application for his re-examination to produce certificate issued under Section 65-B of Evidence Act with regard to aforesaid computer generated photographs. Said application was allowed by the learned trial Court vide impugned order and respondent No.1 is permitted to place on record certificate under Section 65-B of Evidence Act. Learned trial Court further clarified that there is no need of further re-examination of respondent No.1 in this regard.

5. This Court is of the view that in the absence of certificate under Section 65-B of Evidence Act, electronic evidence in the shape of computer generated photographs which respondent No.1 has produced in his examination-in-chief cannot be taken into consideration by the Court. So, if the learned trial Court has allowed respondent No.1 to produce any such certificate issued under Section 65-B of Evidence Act by way of re-examination, there is no illegality in the said order. There was no need for

respondent No.1 to file an application for permission to produce such certificate issued under Section 65 of Evidence Act by way of additional evidence reason being computer generated photographs are already produced by respondent No.1 in his examination-in-chief. The only infirmity in the impugned order is that in case respondent No.1 tenders certificate issued under Section 65-B of Evidence Act in his re-examination, then opportunity is to be given to the petitioners to further cross-examine him with regard to that certificate.

6. Present petition stands disposed of in the aforesaid terms.

(KARAMJIT SINGH)
JUDGE

July 25, 2023

Paritosh Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No