

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

141

2023:PHHC:114892

CR-5923-2022

Date of decision: 01.09.2023

SONIA UPPAL

..Petitioner

Versus

VIDYA SAGAR AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. K.S. Dhillon, Advocate for the petitioner.

Mr. Sandeep Arora, Advocate for respondents.

ANIL KSHETARPAL, J(Oral)

1. The petitioner herein is the defendant in a plaintiff's suit for grant of mandatory injunction directing the defendants to remove the *malba* existing on the suit property. In the beginning, Sh. Naresh Kumar while representing himself as attorney of the plaintiff, appeared in evidence. However, subsequently, the plaintiff himself wanted to appear before the Court and depose, which was opposed by the defendant (petitioner) on the ground that the plaintiff's attorney had already appeared. The trial Court has permitted the plaintiff to appear as a witness, as some facts are in the exclusive knowledge of the plaintiff. This revision petition has been filed to assail the correctness of the order passed by the trial Court.

2. The learned counsel representing the petitioner contends that once the plaintiff has appeared in evidence through his attorney then he cannot be permitted to appear.

3. On a Court question, the learned counsel representing the petitioner admits that there is no such bar in the laws that govern the process of examination of parties or witnesses. Moreover, if the plaintiff does not appear in evidence, it exposes him to the risk of drawing adverse inference.

Additionally, the attorney can appear as a witness in his own capacity to depose with regard to the steps, which were taken by him.

- 4. Keeping in view the aforesaid facts, the trial Court in exercise of discretion, has permitted the plaintiff to appear in evidence.
- 5. In exercise of revision petition, this Court does not find it appropriate to interfere.
- 6. Dismissed accordingly.
- 7. All the pending miscellaneous applications, if any, are also disposed of.

September 01st, 2023
Ay

(ANIL KSHETARPAL)
JUDGE

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