

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

120

CR-258-2024 (O&M)

Date of decision:15.05.2024

Randhir Singh

... Petitioner

Vs.

Manjit Singh

... Respondent

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

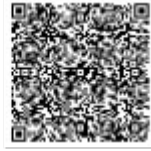
Present: Mr. R.S. Athwal, Advocate for the petitioner.

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SUKHVINDER KAUR, J.

1. The instant revision petition has been filed for setting aside the order dated 05.10.2023 (Annexure P-1), whereby the trial Court has allowed the objection raised by plaintiff, to the question put to him during his cross-examination and declined the question of the petitioner/defendant.

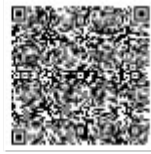
2. The brief facts leading to filing of the present revision petition are that defendant Dalbir Singh (now deceased) had filed three suits for declaration to the effect that sale deeds executed by respondent – Manjit Singh in favour of his wife by misusing the power of attorney of Dalbir Singh are null and void and are result of fraud, misrepresentation, cheating, by misusing the power of attorney bearing No.194 dated 04.03.2013, are without consideration and are a sham transaction and as such, not binding on his proprietary rights. It has been alleged that as a counterblast to said civil



suits, respondent – Manjit Singh by fabricating documents has filed the instant suit for recovery against Dalbir Singh and the petitioner.

3. During cross-examination of the plaintiff – Manjit Singh, counsel in order to establish the conduct and demeanour of Manjit Singh and the factum of his fraudulently executing the sale deeds in favour of his wife without consideration had put the question, which was objected to and the said objection was allowed by the trial Court by declining the said question. Hence, the revision petitioner has knocked the doors of this Court by way of filing of the present revision petition.

4. Learned counsel for the petitioner has contended that there was a specific objection by the petitioner/defendant in the written statement with respect to the fraudulent execution of the sale deeds by the plaintiff in favour of his wife but even then in a very casual manner, the objection raised by the plaintiff was allowed and the question put in this context was declined. He has further contended that the cross-examination is not confined to matters in issue but extends to all relevant facts. He has further contended that in order to prove the character and demeanour of the plaintiff, it is essential for the defendant to cross-examine the plaintiff about his previous conduct and fraud committed by him with the petitioner/defendant. So the order accepting the objection raised by the plaintiff deserves to be set aside and the petitioner/defendant be allowed to cross-examine the plaintiff with regard to fraudulent sale deeds executed by him and other frauds committed by him with his brother/defendant - Dalbir Singh and the petitioner/defendant be



allowed to cross-examine the plaintiff with respect to other litigations between the parties with regard to fraud committed by the plaintiff.

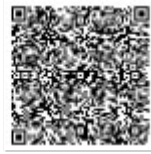
5. I have heard learned counsel for the petitioner at length and have perused the records thoroughly.

6. From the perusal of copy of testimony of PW1 Manjit Singh, it transpires that during cross-examination of the said witness, the following question was put to the said witness:

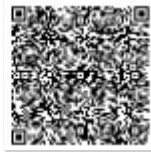
“Q. The three sale deeds which you have done of the marriage palace and restaurant, what was the total value and did you pay the entire money to the defendant or not?”

7. The Court observation is there that learned counsel for the defendant was directed to stick to the facts relevant to the present case and not go beyond the matter in the case, since the connected matter was with defendant and facts of that case were not relevant in the present case. Then on request of counsel for the defendant, the remaining cross-examination was deferred and the petitioner/defendant filed the present revision petition before this Court.

8. Copy of written statement filed by the petitioner/defendant in the instant civil suit has been placed on record. Perusal of the same reveals that a specific plea has been taken in para 4 of the preliminary objections that plaintiff has filed the present false and frivolous suit just of harass the defendant and to put pressure upon them to withdraw the three civil suits pending before the trial Court filed by defendant No.1 through defendant



No.2. Then again in para 7 on merits, a detailed plea has been taken that the plaintiff concealed the fact that defendant No.1, who is real brother of plaintiff was the owner of the land situated in village Beas Pind, Tehsil and District Jalandhar and on the said land, defendant No.1 had got constructed a Marriage Palace and Restaurant. As defendant No.1 was an NRI and a permanent resident of USA, so he was not able to look after and manage the business of the said Marriage Palace and Restaurant and he appointed plaintiff as care taker and manager of the said Marriage Palace and Restaurant to manage the business. Then defendant No.1 had executed a General Power of Attorney on 25.09.2006 in favour of the plaintiff with a view to effectively manage the business of defendant No.1. Thereafter, in March, 2013, when defendant No.1 came to India, then plaintiff asked him to execute fresh Power of Attorney in his favour under the pretext that he had misplaced the original Power of Attorney dated 25.09.2016 and he was facing numerous problems for conducting the business of defendant No.1. Believing him, defendant No.1 executed General Power of Attorney bearing No.194 dated 04.03.2013 in favour of the plaintiff. At the time of execution of the General Power of Attorney dated 04.03.2013, the plaintiff fraudulently took signatures of defendant No.1 on the Will dated 04.03.2013 without the consent and knowledge of the plaintiff. Thereafter, he did not provide any accounts of the income of the Marriage Palace and Restaurant to defendant No.1. It also came to his notice that the plaintiff has executed three different sale deeds in favour of his wife by misusing Power of Attorney dated 04.03.2013 and committed a fraud with defendant No.1 in collusion with his



wife Sarabjit Kaur and the marginal witnesses of the abovesaid sale deeds. It is being claimed by the plaintiff that regarding all the aforesaid three sale deeds, he had made payment of Rs.9 crores to defendant No.1, but infact he had not made the payment of even a single penny to defendant No.1. All the three sale deeds executed by plaintiff in favour of his wife are result of fraud, misrepresentation, concealment of material facts and are without consideration and is a sham transaction. So defendant No.1 through defendant No.2 filed three civil suits for challenging all these three sale deeds which are pending before the trial Court.

9. To prove the aforesaid pleas taken in the written statement and in order to establish the conduct and demeanour of Manjit Singh and the alleged factum of his fraudulently executing the sale deeds in favour of his wife without consideration the said question had been put to Manjit Singh in his cross-examination, which had been disallowed by the trial Court.

10. It is a trite law that examination and cross-examination must relate to relevant facts, but the cross-examination need not to be necessarily confined to the facts which the witness testifies in his examination-in-chief. Rather cross-examination may extend to all the relevant facts. As per Section 146 of the Indian Evidence Act, a witness may ask any question which tend to test his veracity, to discover who he is and what is his position in life or to shake his credit, by injuring his character, although the answer to such questions might tend directly or indirectly to criminate him or might expose or tend directly or indirectly to expose him to a penalty or forfeiture. So, if



the said question had been put to PW1 Manjit Singh in his cross-examination by the petitioner/defendant in order to prove the character and demeanour of the plaintiff, then it was a material question about his previous conduct and the alleged fraud committed by him with the petitioner/defendant.

11. So in the facts and circumstances of the present case, the present revision petition is allowed and the impugned order is set aside. Trial Court is directed to allow defendant No.1 to cross-examine PW1 Manjit Singh by putting the relevant questions in order to prove character and demeanour of the plaintiff, having nexus with the controversy in the present case.

12. Disposed of in the aforesaid terms.

13. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

15.05.2024

harjeet

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |