

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-1335-2024 (O&M)
Date of Decision:-11.03.2024

MOHINDER SINGH AHLUWALIA AND ANR

... Petitioners

Versus

TRIPTA BHANOT AND ORS

... Respondents

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CORAM: HON'BLE MRS. JUSTICE RITU TAGORE

Present:- Mr. Tanvir Singh Attariwala, Advocate
for the petitioners.

RITU TAGORE, J. (Oral)

1. Grievance in the present revision is to the order dated 21.02.2024 (Annexure P-7) passed by Civil Judge (Junior Division), Ludhiana whereby application filed by petitioner No.2/defendant No.2 for granting permission to record the evidence of the witnesses namely Dr. Sandeep Sharma and Dr. Ajit Sood through video conferencing has been dismissed.
2. Considering the limited scope of relief, notice to the respondents has been dispensed with.
3. Learned counsel for the petitioners contends that the respondents/plaintiffs filed a civil suit No.CS/35126/2013 for grant of declaration that the sale deed bearing Vasika No.1456 dated 19.04.1991 executed by plaintiff through his father Sh.Mohinder Singh in favour of the

petitioner No.2/defendant No.2-Pritpal Singh regarding a house, constructed on plot No.54/C comprised in Khasra No.408, Khata No.198/212 situated in village Rajpura, Tehsil, District Ludhiana is illegal, null-&-void, an act of fraud and forgery committed by the defendants with a consequential relief of possession of the aforesaid property, copy of plaint is Annexure P-1.

4. The learned counsel stated that the said suit is currently posted for evidence of the petitioners/defendants and witnesses Dr. Sandeep Sharma and Dr. Ajit Sood as DWs, have already tendered their affidavits for their examination-in-chief (Annexures P-3 and P-4). Learned counsel submits that the petitioners had filed an application to get the cross-examination of above-named witnesses be recorded through video conference and the respondents/plaintiffs opposed the application. It is stated that the learned Trial Court wrongly dismissed the said application.

5. Learned counsel next submits that witnesses are Senior Doctors working in a reputed hospital namely Dayanand Medical College and Hospital (DMC), Ludhiana. Dr. Sandeep Sharma is a Urologist/Superintendent and Dr. Ajit Sood is Head of the Department of Gastrology. They are Senior Consultants of aforementioned hospital and due to their extremely busy schedule, being Senior Consultants, they are unable to appear for their cross-examinations in the case and as such, the petitioners wanted to get their depositions recorded through video conference.

6. Learned counsel also submits that the Courts from time to time has allowed recording of evidence of the Doctors through video conference. To support his plea, the learned counsel referred to the Video Conferencing Rules (Annexure P-8) framed by this Court, providing the facility to get

evidence of the witnesses recorded through video conferencing. Learned counsel submits that the learned Trial Court gave no cogent reason for declining the application. It is therefore prayed that order be set-aside.

7. I have heard counsel for the petitioners and gone through the paper-book minutely.

8. The Video Conferencing Rules (Annexure P-8), appended with the paper-book speaks of recording of the evidence of the witnesses through video conferencing. **Rule 6.1** provides that any party to the proceeding or witness; saved and except where proceedings are to be initiated at the instance of the Court, may move a request for video conferencing. A party or witness seeking a video conferencing proceeding shall do so by making a request in the form prescribed in Schedule-II. **Rule 6.2** further provides that any proposal to move a request to for video conferencing should first be discussed with the other party or parties to the proceeding, except where it is not possible or inappropriate, for example in cases such as urgent applications. **Rule 6.3** further provides, on receipt of such a request and upon hearing all concerned persons, the Court will pass an appropriate order after ascertaining that the application is not filed with intention to impede a fair trial or to delay the proceedings.

9. As per averments of the petitioners, the witnesses are Doctors by profession and are working in DMC, Ludhiana. Evidently, both the witnesses have appeared as witnesses for defendants in their private capacity and have tendered the affidavits for their examination-in-chief. The counsel for the petitioners, on being questioned by this Court, failed to refute that *“the distance between place of residence and work of the witnesses is within*

the territorial jurisdiction of the learned Trial Court and seat of the learned Trial Court and work place of both the witnesses are not at a far of distance”. As per the observations of the learned Trial Court, the physical presence of the witnesses is required for recording their evidence.

10. In these circumstances, this Court finds no ground to interfere in the jurisdiction exercised by the learned Trial Court. However, the learned Trial Court shall make every endeavour to record the statements of above witnesses without undue delay, so that valuable time of the aforesaid witnesses may not be wasted. Accordingly revision petition is dismissed.

11. Since the main case has been decided, pending miscellaneous application(s), if any, are also disposed of accordingly.

11.03.2024
Gaurav Sorot

(RITU TAGORE)
JUDGE

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