



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

CR-2223-2024 (O&M)
Date of Decision : 10.07.2024

Hardeep Singh

.....Petitioner(s)

VERSUS

Paramjit Singh

.....Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Wazir Singh, Advocate for the petitioner.

ALKA SARIN, J. (Oral)

1. The present revision petition has been preferred under Article 227 of the Constitution of India challenging the impugned order dated 13.03.2024 vide which the application for leading additional evidence filed by the defendant-petitioner was dismissed.

2. Brief facts relevant to the present *lis* are that the plaintiff-respondent herein filed a suit for specific performance with consequential relief of permanent injunction. Written statement was filed on behalf of the defendant-petitioner. The evidence of the plaintiff-respondent was closed in the affirmative on 18.09.2019. Thereafter, on 18.10.2019, Hardeep Singh - defendant-petitioner herein - was examined as DW1 and since no other witness was present the case was adjourned to 04.12.2019. On 04.12.2019 no witness was present and the case was adjourned to 15.01.2020. The case was taken up on 14.01.2020 as the Presiding Officer was on casual leave on 15.01.2020 and the case was adjourned. On 11.02.2020 DW2 was present

and was examined. Subsequently, after many dates, DW3 was examined-in-chief and his cross-examination was deferred on 02.11.2022. Eventually on 06.12.2022 Harjeet Singh was also cross-examined as DW3 and the counsel for the defendant-petitioner tendered Mark-A and Mark-B and closed his evidence on behalf of the defendant-petitioner. After the evidence had been closed, an application was filed for adducing additional evidence by the defendant-petitioner herein. It was stated in the application that on 06.12.2022 DW3 was cross-examined but the defendant-petitioner could not come to the Court due to his illness and hence it was not possible to exhibit the cheque in question. Reply was filed to the said application. Vide the impugned order dated 13.03.2024 the application was dismissed. Hence, the present revision petition.

3. Learned counsel for the defendant-petitioner contends that the petitioner himself could not be examined due to his illness and old age, therefore, the cheque could not be exhibited. The learned counsel further prays that the defendant-petitioner be granted one opportunity to produce the said documents.

4. I have heard the learned counsel for the defendant-petitioner.

5. In the present case, from a perusal of the *zimni* orders, it is apparent that the defendant-petitioner himself appeared and was examined as far back as 18.10.2019. On 06.12.2022 Harjeet Singh DW3 was cross-examined and thereafter the counsel for the defendant-petitioner closed his evidence. The argument of the learned counsel for the defendant-petitioner that the defendant-petitioner could not come present due to his illness deserves to be rejected inasmuch as the defendant-petitioner himself stood

examined as far back as 18.10.2019. The learned counsel for the defendant-petitioner is not in a position to deny that DW1 was also cross-examined. Having concluded his evidence, there was no question for him appearing again and tendering the documents and the Court permitting him to reopen his evidence.

6. In view of the above, I do not find any merit in the present revision petition which is accordingly dismissed. Pending applications, if any, also stand disposed off.

10.07.2024
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO