

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

CR-2285-2024 (O&M)

Reserved on : 18.04.2024

Pronounced on : 29.04.2024

SUNIL SHARMA

....Petitioner

VERSUS

ASHWANI KUMAR SHARMA AND ORS.

...Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Aditya Anand, Advocate for the petitioner.

ALKA SARIN, J.

1. The present revision petition has been filed challenging the impugned order dated 28.02.2024 whereby the application filed by the defendant-petitioner herein for tendering an additional/supplementary affidavit in examination-in-chief was dismissed.

2. Learned counsel for the defendant-petitioner would contend that the application ought to have been allowed inasmuch as the submission of the supplementary affidavit in examination-in-chief was necessitated because of the original document which was produced on the record by DW-4 Ankush Sharma, Clerk, MC Kapurthala qua the necessary averments regarding the identification of signatures of Sh. Tek Chand Sharma and Sh. Baijnath Sharma. The learned counsel for the defendant-petitioner would further contend that no prejudice would be caused to the plaintiff-respondent No.1 and that as per the law laid down the supplementary/additional affidavits in examination-in-chief can be allowed. In support of his argument he has relied upon the judgements in **Rakesh vs. Mamta Garg & Ors. [2018 (4) PLR 350]**, **Charan Kumar etc. vs. Smt. Laj Rani etc. [2014 (74)**

RCR Civil 285], **Surlekha Rani @ Sulekha Rani vs. Pardeep Kumar [2022 (3) RCR Civil 842]** and by the Supreme Court in **K.K. Velusamy vs. N. Palanisamy [(2011) 11 SCC 275]**.

3. I have heard the learned counsel.

4. In the present case the defendant-petitioner herein stepped into witness box for his cross-examination after having tendered his affidavit in examination-in-chief. The defendant-petitioner has been partly cross-examined at length by the counsel for the plaintiff-respondent No.1. The present application was filed on 13.02.2024 averring therein that Ankush Sharma, Clerk, MC Kapurthala had stepped into the witness box and had got his statement recorded and produced some very important documents. Besides the documents, the witness had also got the original of documents Ex.DW4/B, Ex.DW4/F, Ex.DW4/L, Ex.DW4/H. The said document DW4/B bears the signatures of Baijnath Sharma, uncle of the defendant-petitioner. Similarly, the document Ex.DW4/F bears the signature of Baijnath Sharma. Document Ex.DW4/L bears the signatures of Tek Chand Sharma, father of the defendant-petitioner and the document Ex.DW4/H bears the signatures of Tek Chand Sharma and Baijnath Sharma. The defendant-petitioner wants to submit a supplementary examination-in-chief in addition to his earlier examination-in-chief to incorporate the averments regarding identification of the signatures of Tek Chand Sharma and Baijnath Sharma. Reply was filed to the said application and vide the impugned order dated 13.02.2024 the said application was dismissed. The reliance by the learned counsel on the decisions in **Rakesh** (supra) and **Charan Kumar** (supra) are wholly misplaced. In both the said matters the witnesses had not yet been cross-examined. However, in the present case, admittedly, the defendant-petitioner

has been partly cross-examined at length by the counsel for the plaintiff-respondent No.1. The case of **Surlekha** (supra) pertained to re-examination of a witness which is not the situation in the present case. In **K.K. Velusamy** (supra) it was held that the power under Order 18 Rule 17 CPC is discretionary and should be used sparingly in appropriate cases to enable the Court to clarify any doubts it may have in regard to the evidence led by the parties and that the said power is not intended to be used to fill up omissions in the evidence of a witness who has already been examined. This decision does not advance the case of the defendant-petitioner. The learned counsel for the defendant-petitioner has not been able to show any law to this Court in support of his contention that once cross-examination had commenced and that too when the witness has partly been cross-examined at length by the other side, the witness could still file an additional/supplementary affidavit in examination-in-chief. In view of the fact that the defendant-petitioner already stands partly cross-examined at length and additional facts are now sought to be incorporated, the application has rightly been rejected by the Trial Court. The impugned order dated 28.02.2024 does not suffer from illegality or irregularity and cannot be faulted with.

5. In view thereof, the present revision petition is wholly devoid of any merit and is accordingly dismissed. Pending miscellaneous applications, if any, also stand disposed off.

29.04.2024

Ankur

(ALKA SARIN)
JUDGE

*NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No*