



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

112

CR-3680-2024**Date of Decision: 05.07.2024**

Maina

...Petitioner

Versus

Sube Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present:- Ms. Veena Hooda, Advocate, for the petitioner.

VIKAS SURI, J. (ORAL)

1. This revision petition under Article 227 of the Constitution of India has been filed by the petitioner-defendant impugning the order dated 30.05.2024 passed by the learned Civil Judge (Senior Division), Hisar, whereby the application moved for recalling of witnesses, i.e. plaintiff-Sube Singh and Satbir Singh, for further cross-examination was dismissed.

2. The facts of the case in brief are that the plaintiff-respondent filed a suit for specific performance of the agreement to sell dated 26.05.2016, registered vide No.859 dated 30.05.2016 in the office of Sub Registrar, Adampur, whereby petitioner-defendant had agreed to sell her land measuring 04 kanal 01 marla, situated at village Ladvi, Tehsil Adampur, District Hisar, for a sale consideration at the rate of Rs.14,00,000/- per acre, out of which the plaintiff-respondent has already paid a sum of Rs.10,00,000/- in the presence of witnesses, with consequential relief of permanent injunction. Plaintiff-Sube Singh and witness Satbir Singh were examined-in-chief on 22.02.2019 and cross-



examined at length on 14.08.2019. The evidence of the plaintiff was closed on 21.12.2019. Thereafter, the matter has been pending for defendant's evidence. On 22.08.2023, the defendant moved an application for recalling of plaintiff-Sube Singh and witness Satbir Singh for further cross-examination. Upon notice, the said application was contested and the same was dismissed vide order dated 30.05.2024. Aggrieved by the aforesaid order, the petitioner-defendant has invoked jurisdiction of this Court by way of the present revision petition.

3. Learned counsel for the petitioner submits that the petitioner-defendant be granted one opportunity to cross-examine the plaintiff and Satbir Singh as material questions are to be asked, which are necessary for the just decision of the civil suit. In support of her contention, she places reliance upon the judgment of Madras High Court in ***K. Prabhakaran vs. A. Natarajan and others***, 2021 (4) LW 769 and the judgment of Kerala High Court in ***Mathew Lawrence son of Late Lawrence vs. Rockey C Neroth son of Late Neroth Chandy and others***, 2020 (4) ILR (Kerala) 939.

4. I have heard learned counsel for the petitioner and perused the record with her assistance.

5. In the present case, it is not in dispute that the plaintiff and Satbir Singh were examined-in-chief on 22.02.2019. It is also undisputed that the said witnesses were cross-examined at length on 14.08.2019 and the evidence of the plaintiff was closed on 21.12.2019. On 05.05.2022, the petitioner-defendant changed his counsel and fresh Power of Attorney was filed. The application for recalling of the witnesses for further cross-examination was moved on 22.08.2023, copy of which has not been



appended as annexure with the present petition. A perusal of the impugned order shows that the Court below, after perusing the said application, has noted that the petitioner-defendant has not averred in the application as to on what facts, the witnesses sought to be recalled were not cross-examined. It is further noted that the said witnesses were thoroughly cross-examined by learned counsel for the defendant and therefore, the contention that some important questions are to be asked is nothing but a mere play to prolong the present litigation.

6. The judgments relied upon by the learned counsel for the petitioner in *K. Prabhakaran’ case* (supra) and *Mathew Lawrence son of Late Lawrence’s case* (supra) are inapplicable to the case in hand as the same are distinguishable on facts. The Civil Court has rightly relied upon the judgment of this Court in *Binder Singh vs. Babu Ram, 2007 (3) CCC 620 (P&H)* while dismissing the application of the petitioner-defendant, wherein it has been held that it would not be permissible to recall a witness only on the ground that some material question could not be put to him/her during cross-examination.

7. In view of the above, this Court is of the opinion that the impugned order does not suffer any infirmity or perversity warranting interference by this Court in revisional jurisdiction. Accordingly, the present revision petition being bereft of merit is dismissed in *limine*.

July 05, 2024

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(VIKAS SURI)
JUDGE

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