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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-4557-2024
Date of decision : 13.08.2024

Varun Jindal

... Petitioner

Versus

Sambhav Impex and another

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Naveen Sharma, Advocate
for the petitioner.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 25.07.2024 passed by the Civil Judge (Senior Division), Ludhiana passed in the case titled as “Varun Jindal vs. Sambhav Impex” bearing civil suit no.CS-1469/2019 dated 26.02.2019 whereby the application for recalling DW-2 for the purpose of cross examination has been dismissed.
2. A perusal of the impugned order would show that vide order dated 09.01.2023, the cross-examination of DW-2 Subhash Chander by the petitioner-plaintiff was treated to be Nil as despite having been granted sufficient opportunities, the petitioner-plaintiff had failed to cross-examine DW-2 Subhash Chander. It is further noted that an application dated 29.03.2023 was moved by the petitioner-plaintiff for recalling the said

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witness Subhash Chander for facing cross-examination which the trial Court vide order dated 14.09.2023 had allowed and an opportunity was given to the petitioner-plaintiff, subject to the cost of Rs.2000/-, to cross-examine DW-2. It has also been noticed that in spite of having availed two opportunities, the petitioner-plaintiff again failed to cross-examine the said DW-2 and thus, the cross-examination of said DW-2 was again treated as Nil vide order dated 03.11.2023. Thereafter, the present second application was filed by the petitioner-plaintiff which was observed to be not maintainable. It was observed that sufficient opportunities have been granted to the petitioner-plaintiff to cross-examine DW-2 and no further opportunity could be granted and the application was dismissed as not maintainable. It was further observed that the case was a 5 years old case and on that account also, no opportunity could be granted.

3. It is not in dispute that the order dated 14.09.2023 granting two opportunities to the petitioner-plaintiff to cross-examine DW-2 was not further challenged and in spite of availing the said opportunities, the petitioner-plaintiff failed to cross-examine DW-2. The trial Court in the said circumstances has rightly observed that the second application is not maintainable and could not be entertained. Learned counsel for the petitioner has not been able to refer to any provision of law or any judgment to show that the petitioner, who is a plaintiff in the suit, has a right to seek recalling of a witness of the defendant. The provision under Order 18 Rule 17 CPC which gives the power to the Court to recall a witness is only an enabling provision giving the said power to the Court and there is no right



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vested in a party to seek recalling of a witness of the other party moreso after he has been examined. Moreover, under Order 18 Rule 17 CPC the Court has the power to put such questions as the “Court” thinks fit to the witness who is recalled.

4. In the facts and circumstances of the present case, the trial Court had rightly rejected the application of the petitioner-plaintiff for recalling DW-2 for the second time and finding no illegality in the impugned order, the present civil revision petition is dismissed.

(VIKAS BAHL)
JUDGE

August 13, 2024
Davinder Kumar

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