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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-4792-2024 (O&M)
Date of decision: 27.08.2024

Pardeep Kumar Mehta

...Petitioner

Versus

Kamlesh Chander Mahajan and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Satish Kumar Garg, Legal Aid Counsel
Advocate for the petitioner.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 15.01.2024 (Annexure P-3) passed by the Additional Civil Judge (Sr. Division), Hoshiarpur whereby the application of the petitioner for summoning of the witnesses has been rejected.

2. Brief facts which emerge from the paper book are that the petitioner, who is a defendant in the suit, had filed an application dated 11.12.2023 (Annexure P-1) for summoning the following seven witnesses:-

“a) Concerned Clerk in the record room Hoshiarpur along with bearing record of civil no. 05/13-01-2005 and civil appeal no.38 of 12-03-2005 both appeal decided on 13-03-2008 in the court of Sh. Jaspal Singh Addl. District Judge Hoshiarpur. Case Titled as Pardeep Kumar Vs.



*Harbans lal & etc. and Case Titled as Harbans lal
Versus Pardeep Kumar & others.*

- b) Sh. V.K. Prashar, Advocate Civil Court Hoshiarpur.*
- c) Sh. Dushyant Ohri, Advocate Civil Court Hoshiarpur.*
- d) Sh. R. S. Terkiana, Advocate Civil Court Hoshiarpur.*
- e) Sh. Kuldip Singh, Advocate Civil Court Hoshiarpur.*
- f) Sh. R.S. Bhogal, Advocate Civil Court Hoshiarpur.*
- g) Sh. Subrata Thakur, Advocate Civil Court Hoshiarpur.”*

3. With respect to witnesses Nos.(b) to (g), it was stated in the application that the evidence of the witnesses is confidential. A reply dated 15.01.2024 (Annexure P-2) was filed to the said application in which it was stated that it was obligatory for the parties to state the purpose for which the witness is proposed to be summoned and it is thereafter the discretion of the Court to summon or not summon a witness, keeping in view the relevancy of the evidence to be tendered by him. In the reply, no objection was raised with respect to witness No.(a) but with respect to witnesses Nos.(b) to (g), it was stated that they are Advocates and since, the purpose of summoning them had not been stated by the petitioner to ascertain the relevancy, thus, the application deserves to be dismissed. It was further pointed out that the provision of Section 126 of the Indian Evidence Act bars the Advocates to disclose professional communication.

4. The trial Court, vide impugned order dated 15.01.2024 (Annexure P-3) had partly dismissed the said application inasmuch as it allowed the summoning qua witness No.(a) but dismissed the application qua witnesses Nos.(b) to (g) by observing that the relevancy of examining the said witnesses had not been stated in the application and the reason



given for the same in the application to the effect that the witnesses were confidential was not accepted by the trial Court and it was observed that there was no question of any confidentiality as the very purpose of examining a witness is to bring on record the evidence to support the averment of a party and other party cannot be kept in suspense by stating that the evidence is confidential and consequently, the application qua summoning of various Advocates as mentioned under clauses (b) to (g) of the application was rejected. The said impugned order was passed on 15.01.2024 and the present revision petition has been filed after much delay in the month of August, 2024. Moreover, counsel for the petitioner has not been able to show that the impugned order is illegal or contrary to any law. Thus, both on merits as well as on delay, the present revision petition deserves to be dismissed and is accordingly, dismissed.

27.08.2024
Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-	Yes/No
Whether reportable:-	Yes/No