



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CR-424-2025 (O&M)

Date of Decision: 10.02.2025

Ramesh Kakkar

... Petitioner

V/S

Kamaljit Kaur

.... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Atul Goyal, Advocate, for the petitioner.

SUVIR SEHGAL, J. (ORAL)

CM-2486-CII-2025

1. For the reasons given in the application, it is allowed.
2. Affidavit of Harinder Singh Narang, Advocate, is taken on record.

Main case.

3. This revision petition has been filed under Article 227 of the Constitution of India for setting aside order dated 07.01.2025, Annexure P-26, passed by the learned Civil Judge (Junior Division), Ludhiana, whereby an application, Annexure P-24, filed by the petitioner-plaintiff for recalling PW-2, Nirmal Singh, for completion of his cross-examination, has been rejected.
4. Counsel for the petitioner states that a civil suit for possession by way of specific performance of agreement to sell dated

12.08.2017 was filed by the petitioner, which is being contested by the respondent. He submits that during the course of evidence, the petitioner produced various witnesses and tendered affidavit of PW-2, Nirmal Singh, in the trial Court on 20.07.2019, Annexure P-3 and PW-2 appeared before the trial Court for cross-examination on 13.03.2020, Annexure P-13, but the cross-examination could not be completed. He submits that due to the out break of Covid-19, from March, 2020, the courts were not functioning normally and after they were resumed, the petitioner produced his entire evidence and closed it on a statement made by the counsel on 20.02.2024. He states that when the matter was fixed for arguments, it transpired that cross-examination of PW-2 has not been concluded and an application, Annexure P-24, was filed, which has been declined vide order impugned herein.

5. By making a reference to the affidavit dated 24.01.2025, submitted by counsel representing the petitioner-plaintiff before the Trial Court, it has been asserted that PW-2 is an attesting witness to the agreement to sell and his testimony is vital for the adjudication of the suit. Counsel has deposed that he remained under a bona fide impression that PW-2 has been fully cross-examined. An opportunity has been sought to produce the said witness for his cross-examination at the risk and cost of the petitioner.

6. I have heard counsel for the petitioner and considered his submissions.

7. From a perusal of the interim orders passed by the trial Court, it appears that cross-examination of PW-2 could not be concluded as the functioning of the courts was disrupted. No doubt, the petitioner has moved an application for his cross-examination at a belated stage,

after both the parties have concluded the evidence, but as PW-2 is stated to be a crucial witness, this Court is of the view that an opportunity deserves to be granted to the petitioner to get him cross-examined.

8. Without calling upon the respondent, which may further delay the conclusion of the trial, an opportunity is granted to the petitioner to produce PW-2 Nirmal Singh, in the witness box for his cross-examination. Petitioner shall appear before the trial Court on 19.02.2025 and the trial Court shall give him one opportunity to produce the said witness. This will be subject to deposit of costs of Rs.25,000/- with Sahayata Charitable Welfare Society, Sector 15-B, Chandigarh (Account No : 911010027828405. IFSC : UTIB0001518). Deposit of costs shall be a pre-condition to grant of opportunity.

9. Revision petition is disposed off.

10.02.2025
pooja saini

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>