



2025:DHC:4316



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 16.05.2025

+ **CM(M) 2216/2024 & CM Appls.18175-76/2024, 24690/2024**

PEEYUSH JAINPetitioner

Through: Petitioner in person

versus

GHASI RAM JAIN (SINCE DECEASED) THROUGH HIS LRS
AND ORSRespondents

Through: Mr. Dharm Chand Jain, LR 1(b) to R1.
Mr. Ankit Jain, Adv. for R-2.
Mr. Gaurav Bhardwaj and Mr. Gaurav Jain, Advs. for R-3.

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

1. Mr. Dharam Chand Jain, LR 1(b) to Respondent No. 1 appears in person and submits that he is Plaintiff before the learned Trial Court and he was also present before the Court on 13.05.2025. Learned Counsel for the Respondents affirms this contention.

1.1 Accordingly, the order dated 13.05.2025 be reflected to include the presence of Mr. Dharam Chand Jain.

2. This matter was heard by this Court on 01.04.2025 and a detailed order was passed. The matter was thereafter listed on 13.05.2025 for hearing at a fixed time, in the presence of all parties.

3. On 13.05.2025, the matter was passed over on the first call since the



learned Counsel and the parties appearing stated that they have engaged a senior Counsel in the matter. The matter was then called out after the pass over matters for the second time and at the request of the Petitioner the matter was called out at the end of the Board. However, despite the matter being called out thrice, no arguments were advanced by the Petitioner and an adjournment was sought for. The matter was thus, adjourned at the Petitioner's request for today.

4. Today, an adjournment slip has been circulated on behalf of the Petitioner, who appears in person.

5. Learned Counsel for Respondent No.1 objects to the request for adjournment. He submits that the Petitioner (Defendant No. 4 before the learned Trial Court) has cross-examined Defendant No. 2 on three dates i.e., 03.02.2024, 05.02.2024 and 06.02.2024. He further submits that despite the cross-examination being conducted on three dates, the grievance of the Petitioner is that his cross-examination was closed.

6. Given the conduct of the parties and since a detailed order was passed by this Court on 01.04.2025, the request for an adjournment is denied.

7. The challenge in the present Petition which has been filed under Section 115, CPC seeking to set aside orders dated 05.02.2024 and 06.02.2024 passed by the learned Trial Court in matter captioned ***Ghasi Ram Jain v. Padam Chand & Ors.*** The Petitioner is Defendant No. 4 before the learned Trial Court.

7.1 The record reflects that the suit before the learned Trial Court was filed in the year 2000 and is amongst the 75 oldest cases in the District. The Defendant evidence was in progress before the learned Trial Court prior to



the suit being kept in abeyance by an order of the Coordinate Bench of this Court dated 29.04.2024.

8. Learned Counsel for Respondent Nos. 2 and 3 have been heard in the matter. It is contended that from a reading of the cross-examination, it can be seen that the delay in the recording of evidence is being caused by the Petitioner as the questions that were being asked were repetitive. In addition, it is contended that questions were also being asked which were related to a period prior to the period that Petitioner and Respondent No. 5 had jointly purchased the share of Respondent No. 2, which was in the year 1998 and thus irrelevant.

8.1 Learned Counsel for Respondent submits that the learned Trial Court had observed that the questions which relate to the prior period were found not to be relevant and thus, these questions were disallowed or the objections noted which were left to be decided at the time of final arguments. Reliance is placed upon the cross examination as well as on the questions which are set out in the cross-examinations conducted on 03.02.2024, 05.02.2024 and 06.02.2024 in this behalf.

8.2 Learned Counsel for Respondent submits that since the Petitioner was repeatedly raising questions about the period prior to when witness had obtained any rights in the property, these questions were disallowed.

8.3 Learned Counsel for Respondent further submits that as observed on the last date of hearing, there is a stay on the proceedings before the learned Trial Court as has been directed by a Coordinate Bench of this Court more than a year ago thus, the matter is not proceeding before the learned Trial Court and before this Court adjournments are taken by the Petitioner.



9. As stated above, the Petition has been filed seeking to challenge the orders dated 05.02.2024 and 06.02.2024 passed by learned ADJ-04, South West, Dwarka Courts, Delhi, whereby the permission to recall Defendant No.2 (Respondent No. 3 herein) as a witness for cross-examination was declined. The order impugned sets out that this witness has already been cross-examined 15 times since 2018. Despite the foregoing, an additional opportunity was sought to cross-examine the said witness which was declined by the learned Trial Court. The record also reflects that this witness i.e., DW-2 was cross-examined extensively on three dates 03.02.2024, 05.02.2024 and 06.02.2024 by the Petitioner.

10. For the purposes of this order and to avoid confusion, it is also apposite, to set out the names and details of the parties involved before the High Court and the Trial Court in the present case, which is set out in a tabular form below:

NAME	HIGH COURT	TRIAL COURT
Peeyush Jain	Petitioner	Defendant No.4
Ghasi Ram Jain	Respondent No.1	Plaintiff
Padam Chand Jain	Respondent No.2	Defendant No.1
Prem Chand Jain	Respondent No.3	Defendant No.2
Ramesh Chand Jain	Respondent No.4	Defendant No.3
Chandresh Jain	Respondent No.5	Defendant No.5

11. This Court has also extensively examined the orders passed by the learned Trial Court in this matter. By its order dated 30.01.2024, the learned Trial Court had fixed a schedule for the cross-examination of the witnesses for early disposal of the matter, given that the matter pertained to the year



2000 and amongst the 75 oldest cases of the District Court. The learned Trial Court had also directed on that date, that even after 10 effective hearings, the evidence of DW-1 and DW-2 could not be concluded. The Court had also directed that no adjournment shall be granted to parties. It is apposite to set out Paragraph 12 to 14 of the order dated 30.01.2024 are set out below:

*“12. In compliance of directions passed by Hon'ble High Court of Delhi, this court make best endeavor for expeditious **disposal and in fact given 10 effective hearings but, evidence of DW2 and D1W2 could not be concluded.***

*13. In view thereof, **this court has fixed following dates of hearing** for the purpose of recording evidence on behalf of DW2 and D1W2 as per convenience of parties.*

S. No.	Date	Witness	Cross-examination by
1	31.01.2024	DW2	Defendant No. 3
2	02.02.2024	DW2	Defendant No. 3
3	03.02.2024	DW2	Defendant No. 4
4	05.02.2024	DW2	Defendant No. 4
5	06.02.2024	DW2	Defendant No. 4
6	07.02.2024	DW2	Defendant No. 4
7	12.02.2024	DW2	Defendant No. 5
8	13.02.2024	DW2	Defendant No. 4
9	17.02.2024	D1W2	Plaintiff
10	19.02.2024	D1W2	Defendant No. 3
11	20.02.2024	D1W2	Defendant No. 4
12	21.02.2024	D1W2	Defendant No. 5

*14. Parties shall be adhere to the above scheduled dates. **It is made clear that no adjournment shall be given to any of the parties. In case any party failed to appear on schedule date, his right shall be closed and matter shall proceed on merit.***

[Emphasis supplied]

12. An examination of the record reflects that on 30.01.2024, DW-2 was present and cross-examined by Respondent No.4/Defendant No 3 as is set out in the order sheet. DW-2 was also cross-examined on 31.01.2024,



02.02.2024 and 03.02.2024.

12.1 On 03.02.2024, DW-2 was cross-examined for almost three hours by Petitioner/Defendant No. 4 as is reflected from the order dated 03.02.2024. Subsequently, on 05.02.2024, DW-2 was further cross-examined by Petitioner for almost two hours in the pre-lunch session and for one and a half hours post-lunch session. On that date, the learned Trial Court noted that there were various disruptions made by the parties and personal remarks were exchanged. The Court had also noted that the objections with respect to irrelevancy of questions being asked for the period from 1966-1974 was raised by Defendant Nos. 1 and 2. The Court directed that these objections would be kept open to be adjudicated at the time of final hearing. It is apposite to set out the relevant extract of the order dated 05.02.2024 in this behalf which is reproduced below:

*“During cross-examination of DW2, various disruption made by the parties and personal remarks were exchanged. In fact, during cross-examination, **Ld. Counsel for the defendant no. 1 and 2 raised objections with respect to irrelevancy of questions qua defendant no. 4 on the ground that defendant no. 4 and 5 entered into the shoe of defendant no. 1 only in the year 1998 and have no locus to ask the questions for the period 1966-1974.***

Since defendant no. 2 was under cross-examination since 21.03.2018 and has been effectively cross-examined at least 15 times by the plaintiff and other defendants in pre/post lunch session, thus, for the purpose of smooth court proceedings, said objections kept open to be adjudicated at the time of final hearings.”

[Emphasis supplied]

12.2 Thereafter, the matter was listed on 06.02.2024, when DW-2 was cross examined for another one and a half hours and discharged by the Petitioner.

12.3 On 12.02.2024, the matter was fixed for cross-examination of DW-2



on behalf of Respondent No. 5 (Defendant No. 5 before the learned Trial Court and father of the Petitioner) when an adjournment was sought. Even on 13.02.2024, an adjournment was sought on behalf of Defendant No. 5 for cross-examination of DW-2. Thereafter, after seeking a passover on two occasions, DW-2 was cross-examined for one and a half hours in the post lunch session on behalf of Defendant No. 5 and discharged. Thus, clearly the cross-examination of DW-2 was conducted extensively and for several hours by the Petitioner as well as his father, Respondent No.5.

13. A perusal of the examination and cross-examination shows that the issue that repeated attempts were made to raise questions with respect to the constructions during the period from 1966 to 1984 and other questions were also in relation to this period itself. The learned Trial Court after permitting certain questions to be asked has given Court observation which includes that the objections raised are to be kept open to be adjudicated at the time of final arguments and also that the questions have been disallowed as being non-specific and irrelevant.

14. The cross-examination also shows that on 03.02.2024 itself, the Court had observed that the Defendant Nos.4 and 5 had jointly purchased the share of Defendant No.1 in the year 1988 and that the questions prior to the date Defendant Nos.4 and 5 stepped into the shoes of Defendant No.1, would not be relevant for the adjudication of the present case. This also form part of the Court observation as recorded in the cross-examination of DW2 by the Petitioner/Defendant No.4. The following extract of the cross-examination conducted on 03.02.2024 is relevant:

“03.02.2024

...



Q. If according to you, the alleged family settlement dated 10.06.1966 and 14.08.1974 were arrived between the parties concerned with the consent to late Sh. Harshai Mal Jain, then do you have any documentary evidence to substantiate that Defendant no. 1 and 2 immediately thereafter had applied for mutations of all the lands falling in respective khasra, in their names ?

Court observation : Question disallowed as defendant no. 4 and 5 have jointly purchased share of defendant no. 1 in the year 1998 while above question relates to the prior period and considering the facts and circumstances of present case, this court found this question irrelevant.

Further cross-examination is deferred at the request of Ld. Counsel for the defendant no. 4 at 1.15 PM.

RO & AC”

[Emphasis Supplied]

15. The cross-examination also shows that the order dated 05.02.2024 has been passed in view of, firstly, repeated questions that were asked and secondly, in view of the fact that the questions did not pertain or were not arising out of the rights that have been sought to be claimed by the Petitioner.

15.1 The evidence *qua* order dated 06.02.2024 also shows that again, questions prior to the year 1998 were being asked. The learned Trial Court had recorded that its observation that the objection be kept open to be adjudicated at the time of final arguments. Thus, all objections and contentions can be raised by the Petitioner during final arguments of the case.

16. In exercise of supervisory jurisdiction under Article 227 of the Constitution of India, this Court does not act as a Court of first appeal to reappreciate, reweigh the evidence or facts upon which the determination under challenge is based. Supervisory jurisdiction is not to correct every error of fact or even a legal flaw when the final finding is justified or can be



supported. The High Court is not to substitute its own decision on facts and conclusion, for that of the inferior court or tribunal. The Supreme Court in the case of *Estralla Rubber v. Dass Estate (P) Ltd*¹, has held that:

“6. The scope and ambit of exercise of power and jurisdiction by a High Court under Article 227 of the Constitution of India is examined and explained in a number of decisions of this Court. The exercise of power under this article involves a duty on the High Court to keep inferior courts and tribunals within the bounds of their authority and to see that they do the duty expected or required of them in a legal manner. The High Court is not vested with any unlimited prerogative to correct all kinds of hardship or wrong decisions made within the limits of the jurisdiction of the subordinate courts or tribunals. Exercise of this power and interfering with the orders of the courts or tribunals is restricted to cases of serious dereliction of duty and flagrant violation of fundamental principles of law or justice, where if the High Court does not interfere, a grave injustice remains uncorrected. It is also well settled that the High Court while acting under this article cannot exercise its power as an appellate court or substitute its own judgment in place of that of the subordinate court to correct an error, which is not apparent on the face of the record. The High Court can set aside or ignore the findings of facts of an inferior court or tribunal, if there is no evidence at all to justify or the finding is so perverse, that no reasonable person can possibly come to such a conclusion, which the court or tribunal has come to.”

[Emphasis Supplied]

17. The Impugned Order dated 05.02.2024 directs that the cross-examination would continue on 06.02.2024 and that the objections would be decided at the time of final arguments. Given the circumstances, this Court finds no infirmity with the order dated 05.02.2024 which would merit interference by this Court.

18. The Impugned Order dated 06.02.2024 reflects that DW-2 was again cross-examined from 10:44 am to 12:15 pm and discharged. In addition, one last and final opportunity was granted to comply with the directions passed in order dated 02.02.2024. The matter was then fixed for cross-examination

¹ (2001) 8 SCC 97



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of DW-2 by Defendant No.5 on the date fixed in the Schedule as fixed by the learned Trial Court on 30.01.2024, i.e., on 12.02.2024.

18.1 In addition, and as is reflected from the record of the learned Trial Court and the fact that approximately 10 hours of cross-examination of DW-2 by the Petitioner have already taken place, this Court finds no infirmity with the directions passed by the learned Trial Court with the Impugned Order dated 06.02.2024 that would merit interference by this Court on the exercise of power of superintendence either.

19. The Petition is accordingly dismissed. All pending Applications stand closed.

20. During the course of the hearings, both on the 13.05.2025 and today, this Court found the behaviour of the Petitioner to be rude and disrespectful to the Court. The Petitioner who appeared in person raised his voice over the voice of the Court continuously not permitting the Court to even dictate the order. The behaviour of the Petitioner is patently contemptuous and interferes with due course of judicial proceedings. The behaviour undermines the authority of the Court in the perception of public at large. However, the Petitioner is being let off with a warning to ensure that Court proceedings are not disturbed and the Court decorum is maintained by him, in the event he appears before the Court.

21. The parties will act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

MAY 16, 2025/r/ha/pa

[Click here to check corrigendum, if any](#)