IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH

Civil Revision No. - 6898 /2019

CM - 22512- CM-19

To

The Addl. Registrar,

High Court, Chandigarh.

NAVEEN KUMAR RAGHAV

...Petitioner

Versus

BHAWANI SINGH

...Respondent

Sir,

Will you kindly treat the accompanying petition as an urgent one in accordance with the provisions of Rule 9, Ch. 3-A, Rules and Order High Court, Volume V.

Grounds of urgency are :-2.

Stay is prayed for.

Date: 22.10.2019

Yours faithfully,

Randhir Singh Hooda, Advocate (P/2660/99)

Jangvir Singh Hooda, Advocate (P/1035/99)

Report A2 Amorum

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision Petition No. 6898/2019

NAVEEN KUMAR RAGHAV			Petitioner	
		Versus		
BHAWAI	NI SINGH		Respondent	
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Sr.no.	Particulars	Date	Page No.	C. Fee
l	Court Fee	22.10.2019	1	15.00
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2.	Affidavit	22.10.2019	2	
3.	Civil Revision	22.10.2019	3 –13	02.65
4.	Affidavit	22.10.2019	14	
5.	Annexure:			
P/1	APPLICATION	02.08.2019	15 – 16	01.60
P/2	IMPUGNED ORDER	19.08.2019	17 – 20	
6.	VERNACULAR:			
P/2	IMPUGNED ORDER	19.08.2019	21 – 24	01.65
7.	P.O.A. & S.P.A.	19.10.2019	25 – 27	02.65
			U.F.:	02.65
			Total:	13.85

NOTE:

1. Whether Caveat has been filed: No

2. Any other case: No

PLACE :- CHANDIGARH DATE :- 22.10.2019

(RANDHIR S. HOODA & JANGVIR S. HOODA)

P/2660/99 P/1035/99

ADVOCATES – Counsel for the petitioner

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R. No. 6898 of 2019

NAVEEN KUMAR RAGHAV

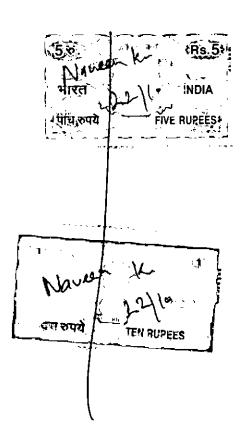
...Petitioner

Versus

BHAWANI SINGH

...Respondent

Court Fee -15



22/10/11

Chandigarh 22.10.2019

(RANDHIR S. HOODA & JANGVIR S. HOODA)
Advocates – Counsel for the petitioner

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IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH

C. Misc. No. 22512-CI of 2019 in CR No. 6898 of 2019

NAVEEN KUMAR RAGHAV

v/s

BHAWANI SINGH

Application under Section 151 C.P.C seeking exemption from filing true typed copy of P/1 and P/2 & certified copy of P/1.

Respectfully showeth: -

- That the petitioner has filed accompanying revision petition before this Hon'ble Court. The contents of the grounds may kindly be read as part and parcel of the present application.
- That petitioner has filed legible photo copy of P/1 and certified copy of P/2.
 The matter is of urgent nature.

It is humbly prayed instant application may kindly be allowed and exemption may kindly be given from filing true typed copy & certified copy of P/1 in the interest of justice.

Chandigarh 22.10.2019

RANDHIR S.HOODA & JANGVIR S. HOODA) Advocates – Counsel for the petitioner IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH

NAVEEN KUMAR RAGHAV v/s BHAWANI SINGH

Affidavit of SUDESH KUMAR, s/o Dhum Singh, aged 50 years, r/o village Bhondsi, Tehsil Sohna, Distt. Gurgaon.

I the above named deponene do hereby solemnly affirm and declare as under:

That the petitioner has filed accompanying revision petition before this Hon'ble Court. The contents of the grounds may kindly be read as part and parcel of the present application.

That legible photo copy of P/1 and certified copy of P/2 are placed on record. The matter is of urgent nature.

Chandigarh 22.10.2019

Verification

Verified that the contents of my aforesaid affidavit are true and correct as per best of my knowledge and nothing has been kept concealed therein.

Chandigarh 22.10.2019

IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH

Civil Revision Petition No. 6898/2019

(MEMO OF PARTIES)

NAVEEN KUMAR RAGHAV, s/o Chandersain Raghav, aged 47 years, r/o 38, Strahan Road, BOW LONDON, Post Code E3 5DB, England, United Kingdom through his SPA - SUDESH KUMAR, s/o Dhum Singh, aged 50 years, r/o village Bhondsi, Tehsil Sohna, Distt. Gurgaon.

..Petitioner

Versus

BHAWANI SINGH, s/o late Sh.Bharat Singh, s/o Sh.Tuhiram, r/o village Bhondsi, Tehsil Sohna, Distt. Gurgaon.

..Respondent

Chandigarh 22.10.2019

(RANDHIR S. HOODA & JANGVIR S. HOODA)

Advocates – Counsel for the petitioner

Revision Petition under Article 227 of Constitution of India for calling the record pertaining to impugned order dated 19.08.2019 (P/2), whereby, Id. ACJ (SD), Sohna, in absolutely mechanical and hyper-technical manner, declined the legitimate prayer of petitioner/plaintiff seeking cross-examination of PW-1 Sudesh, who has already given his chief and could not be examined by the defendant and plaintiff due to inadvertence remained oblivion of the said anomaly and after perusal of the record and zimni orders this Hon'ble Court is prayed for exercising supervisory power and allow the legitimate prayer made by petitioner/plaintiff while setting aside order dated 19.08.2019 (P/2).

and

This Hon'ble Court may pass any other appropriate order or direction, which this Hon'ble Court may deem proper in the peculiar facts and circumstances of the instant case.

Respectfully Showeth:

- That the petitioner is citizen of India and being a resident of the State of Haryana, is entitled to invoke the extra-ordinary jurisdiction of this Hon'ble High Court under Articles 227 of the Constitution of India.
- 2. That instant petition is arising out of Civil Suit No.159/2016, titled as NAVEEN KUMAR versus BHAWANI SINGH pending adjudication before Ld. ACJ (SD) Sohna. Since it is imperative to bring forth relevant facts in the kind notice of this Hon'ble Court, brief facts of the case are as follows:

- Petitioner/plaintiff is an NRI, he has filed aforementioned Civil Suit through his SPA Sudesh Kumar s/o Dhum Singh seeking decree of permanent injunction and mandatory injunction w.r.t. a common passage, which is only access to his property, however, same has been blocked by respondent/defendant by installing a Gate on the said passage, which has caused total blockage for ingress-outgress/access to the property of petitioner/plaintiff.
- Petitioner had purchased the property vide three sale deeds viz 3.5 Marla from respondent/defendant vide sale deed 7427, dated 25.01.2012; 3.5 Marla from Bharat Singh (father of respondent/defendant) vide sale deed 968, dated 30.05.2013; and vide sale deed 21891 dated 15.11.2013 from Veer Singh s/o Gopi Singh.
- Earlier i.e., before purchase the above said land/property (all three) were part and parcel 1 Kanal 11 Marla jointly owned by Bharat Singh, Omkala d/o Sh.Gopi Singh and Veer Singh s/o Gopi Singh.
- A preliminary decree of partition w.r.t. the aforesaid property was passed regarding inerse shares of the said parties vide judgment and decree dated 29.11.2012 in Civil Suit No.272 of 2003 in case titled Om Kala versus Veer Singh etc. and in the said judgment Bharat Singh was restrained vide decree of permanent injunction from blocking common passage (subject matter of C.S. No.159/2016)
- After partition, Om Kala relinquished her share to Veer Singh (brother) vide release deed 6346, dated 30.01.2013 and thus Veer Singh sold his share and share of Om Kala.

- It is relevant to mention that in the sale deed there is categoric mention of common passage towards eastern side.
- As petitioner/plaintiff is living in London, he handed over the abovementioned property to his friend Sudesh Kumar, who is holding SPA in his favour from petitioner/plaintiff.
- In the month of May, 2016, respondent/defendant started causing obstruction in the usage of said passage by Sudesh Kumar. And, he raised a gate on the said passage forcibly, illegally and malafidely.

 Even, a lock was put on the said gate by respondent/defendant.
- When Sudesh Kumar requested respondent/defendant to remove the said obstruction, respondent/defendant flatly refused in very rash and arrogant manner. Hence, petitioner/plaintiff was constrained to file aforesaid Suit through SPA Sudesh Kumar in the month of May, 2016.
- 3. That respondent no.2 is influential and manipulative. After notice, he contested the claim of petitioner by filing a written statement, which was again replied by petitioner/plaintiff vide replication on 23.11.2016.
- 4. That after completion of the pleadings of the parties, ld. Trial Court vide order dated 31.03.2017 framed the issues and directed the parties to file PF, DM, list of witnesses etc. within five days otherwise parties shall lead evidence.
- 5. That petitioner/plaintiff side produced PW-1 Sudesh Kumar, PW-2 Jetinder & PW-3 Veer Singh. However, PW-1 Sudesh could not be cross examined by the defendant despite of repeated opportunities given by the ld. Trial Court.

 And, due to inadvertence, counsel for petitioner/plaintiff believing that cross examination had been complied with, on 12.09.2018 closed the

evidence. For the assistance of this Hon'ble Court the relevant Zimni orders are reproduced hereunder:

27.11.2017: One Witness namely, Jitender Singh is present but could not be examined. Adjournment sought by ld. Counsel for the defendant. Heard. Request allowed, subject to cost of Rs.200/- to be deposited in SDLSC, Sohna by the defendant. Now come up on 11.12.2017 for plaintiff's evidence at own responsibility. Present witness is discharged for today and bound down for next date of hearing.

11.12.2017: Previous cost of Rs. 200/- not paid by the defendant in SDLSC, Sohna.

PW-1 Suresh and PW-2 Jitender Singh are present and tendered their affidavits Ex.PW1/A, Ex.PW-2/A alongwith documents as Ex.P1 to Ex.P15 in his examination in chief but their cross-examination have been deferred on the request of ld. Counsel for defendant. Heard. Allowed. Now to come up on 08.01.2018 for cross examination of PW1 as well as remaining plaintiffs evidence at own responsibility.

On 08.01.2018 and the next adjourned date i.e., 05.02.2018 PW-1 Sudesh Kumar and PW-2 Jitender Singh could not come present. Whereas on 26.02.2018 PW-3 Veer Singh came present.

26.02.2018: PW-3 Veer Singh is present and examined in chief. His cross examination is deferred by the learned counsel for the defendant. No other PW is present. Adjournment sought.

Heard. Allowed. Now, to come up on 04.04.2018 for cross examination of PW-3 as well as for remaining plaintiff's evidence at own responsibility.

04.04.2018:

Previous cost of Rs.200 not paid by the defendant in SDLSC, Sohna. One PW-2 Jetinder is present and examined. No other PW is present. Adjournment sought. Heard. Allowed. Now, to come up on 16.05.2018 for cross examination of deferred PWs as well as remaining plaintiff's evidence at own responsibility.

16.05.2018:

Previous cost of Rs. 200/- not paid by the defendant in SDLSC, Sohna.

One PW Suresh is present but could not be examined. A date is request for learned counsel for the defendant. Heard. Request allowed. Now, to come up on 18.07.2018 for cross-examination of Pws as well as remaining plaintiff's evidence at own responsibility. Subject to cost of Rs. 200/- to be deposited in SDLSC, Sohna by the defendant. Interim order dated 10.10.2016 is extended till the next date of hearing.

18.07.2018:

Previous cost of Rs. 400/- not paid by the defendant in SDLSC, Sohna.

One deferred PW-3 Vir Singh is present and examined. PW
Suresh Kumar is present but could not be examined. A
date is request for learned counsel for the defendant.
Heard. Request allowed. Now, to come up on 12.09.2018
for cross-examination of Pws as well as remaining

plaintiff's evidence at own responsibility. Interim order dated 10.10.2016 is extended till the next date of hearing. Present witness is discharged and bound down for the next date of hearing.

12.09.2018:

Previous cost of Rs. 400/- not paid by the defendant in SDLSC, Sohna.

No PW is present. Learned counsel for plaintiff suffered the statement that I closed my oral evidence on behalf of plaintiff. A date is requested for submitted the documents. Adjournment sought. Heard. Allowed. Now, to come up on 12.12.2018 of documentary evidence at own responsibility. Interim order dated 10.10.2016 is extended till the next date of hearing.

- 6. That thereafter, defendant evidences were lead by same and after closure of same case is fixed for rebuttal evidence and arguments.
- 7. That in order to prepare his arguments counsel for plaintiff/petitioner sought the certified copies of evidence i.e., cross examination of PW-1, PW-2 and PW-3; DW-1, DW-2 and issues on 17.07.2019. Then, he was informed by copyist that there is no cross-examination of PW-1 Sudesh. Counsel for petitioner/plaintiff immediately filed an inspected the case file to ascertain the said dictum of copyist and found that Affidavit Ex.PW1/A alongwith documents Ex.P1 to Ex.P15 with statement of examination in chief of PW-1 is available in the case file, however, the cross examination of PW-1 Sudesh is not present.

- 8. That it is humbly submitted that counsel for petitioner/plaintiff at the court below had believed that since on 12.09.2018 the cross examination of the PW-1 had held he closed the evidence.
- 9. That it is very humbly submitted that due to inadvertence, counsel for petitioner/plaintiff believing that cross examination had been complied with, on 12.09.2018 closed the evidence, whereas, PW-1 Sudesh has not been cross examined and thus, his statement i.e., examination in chief, affidavit Ex.PW1/A and documents Ex.P1 to Ex.P15 will not be considered by ld. Trial Court while adjudicating the suit.
- 10. That it is relevant to point out with humbleness that evidence of PW-1

 Sudesh is very vital piece of evidence in support of petitioner/plaintiff's evidence and non-consideration of the same due to aforesaid inadvertence will prejudice the civil rights of petitioner/plaintiff.
- 11. That in aforesaid circumstances, on 02.08.2019, petitioner/plaintiff preferred an application under Order 18 Rule 17 read with S.151 CPC invoking the inherent powers of Id. Trial Court for recalling of PW-1 Sudesh and direct respondent/defendant to cross-examine of the same.
- 12. That it is quite disappointing that ld. Trial Court vide order dated 19.08.2019, while adopting very hyper-technical and non-judicious approach declined the legitimate request of the petitioner/plaintiff.
- 13. That hence, instant revision is preferred against order dated 19.08.2019, whereby, ld. Trial Court declined the legitimate prayer of petitioner/plaintiff seeking recall and cross-examination of PW-1 Sudesh, who was not cross-examined by respondent/defendant despite repeated opportunities and petitioner/plaintiff under a mistaken belief got the evidence closed due to inadvertence and remained oblivion of the aforesaid anomaly

- 14. That it is relevant to mention that petitioner seeks to assist the ld. Trial Court for the just and appropriate adjudication of the matter by removing the anomaly of non-cross-examination of PW-1 Sudesh lest manifest injustice would be caused to the petitioner/plaintiff.
- 15. That it would not be out of place to mention that the proposed evidence goes to the germane of the matter and reveals the oblique methods adopted by respondent/plaintif to defeat the right of petitioner over property in question.
- 16. That it would not be out of place to mention that as the above said evidences are very much essential and necessary for the just and substantial adjudication of the matter and call of justice, petitioner moved an application before ld.Trial Court with a prayer for permission to summon aforesaid witness and direct his cross examination by defendant. The said evidences are very much necessary for the proper decision of the controversy between the parties and to reach to a right conclusion of the controversy between the parties.
- 17. That however, due to erroneous approach adopted by ld. Trial Court the right of the petitioner has been prejudiced, which could result into jeopardizing his civil suit as well.
- 18. That it is quite sad that since Id. Trial Court adopted erroneous approach, resultantly, the application filed by petitioner was dismissed merely on conjecture and surmises vide order dated 19.08.2019. Ld. Court below has utterly failed to appreciate the facts and purposed evidences and could not comprehend that the proposed evidences are relevant, significant and touching "the substantial cause".

- 19. That it is humbly submitted that for pronouncing the judgment, the additional evidences sought to be produced by petitioner/plaintiff are certainly necessary. Therefore, ld. trial court deem to have judiciously exercised the discretion vested in it for allowing the additional evidence as same is enabling the court to deal with the controversy in an effective and judicious manner. Hence, the impugned order dated 19.08.2019 is liable to be set aside and prayer of the petitioner/plaintiff deserves to be allowed in the peculiar facts and circumstances of instant case.
- 20. That in aforesaid circumstances and with a view to uphold the regard for the process of law and provisions of rule and law at first place and secondly for proper adjudication of civil suit, petitioner/plaintiff has invoked instant extra ordinary supervisory jurisdiction of this Hon'ble Court.
- 21. That it is necessary to bring to the kind notice of this Hon'ble Court that case is at the stage of arguments. Therefore, it becomes very necessary for seeking kind indulgence of this Hon'ble Court vide this Revision Petition and setting aside the impugned order (annexure P/2) which manifest injustice to the petitioner and frustrates the justice.
- 22. That the petitioner has not filed any such or similar petition before this Hon'ble Court of before the Supreme Court of India. No such or similar petition is pending before this Hon'ble Court of Hon'ble Apex Court.

PRAYER:

It is therefore, respectfully prayed that the impugned order dated 19.08.2019 (P/2) passed by ACJ (SD) Sohna, whereby the application of the petitioner seeking recall of PW-1 Sudesh and directing cross-examination of same has been declined merely

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on conjecture and surmises without applying judicious mind, may kindly be set

aside keeping in view the facts and circumstances of the present case.

It is most humbly prayed that said application may kindly be accepted and PW-1

Sudesh may kindly be summoned/recalled while directing respondent/defendant

to cross-examine the same.

It is further prayed that the during the pendency of the present petition the

proceedings at the Court below may kindly be stayed in the interest of justice

otherwise irreparable loss would be caused to the petitioner which could not be

compensated by way of cost.

Chandigarh 22.10.2019

(RANDHIR S. HOODA & JANGVIR S. HOODA)
Advocates – Counsel for the petitioner

IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH

Civil Revision Petition No. 6898

NAVEEN KUMAR RAGHAV BHAWANI SINGH

Affidavit of SUDESH KUMAR, s/o Dhum Singh, aged 50 years, r/o village Bhondsi, Tehsil Sohna, Distt. Gurgaon.

I, above named deponent do hereby solemnly affirm and declare as under:

- That the contents of the Revision have been understood by the petitioner 1. and are true and correct as per his knowledge. No part thereof is false and nothing has been kept concealed therein.
- That exemption may kindly be given from filing certified & true typed copy 2. of P/1.
- That the petitioner has not filed any such or similar petitioner before this 2. Hon'ble Court of before the Supreme Court of India. Nor any such or similar petition was pending before Ld.Distt. Judge at the time of filing instant petition.

Chandigarh 22.10.2019

SW) (V Deponent (SUDESMKUMAR)

Verification:

Verified that the contents of my above affidavit are true and correct to my

knowledge. No part thereof is false and nothing has been kept concealed therein.

Chandigarh 22.10.2019

Deponent

(SUDFSHKUMA)

ANNEXUREP/1 18

2/8/19

2819

IN THE COURT OF SH. ALOK ANAND, CIVIL JUDGE, SOHNA.

Naveen kumar Raghav

Versus

Bhawani Singh.

Suit for Permanent Injunction

Application under order 18 Rule 17 r/w section 151 of CPC for recalling witness PW-1 for cross examination

Sir,

The applicant/plaintiff most respectfully submits as under:-

- 1. That the above mentioned case is pending before the Hon'ble Court and is fixed for today.
- 2. That while obtaining certified copies of evidence, that is, cross examination of PW-1, PW-2, PW-3, DW-1 & DW-2 and issues on 17.07.2019 for preparation of argument, the copyist told to the counsel of plaintiff that there is no cross examination of PW-1 Sh. Sudesh Kumar available in the case file, so the plaintiff, on the date fixed, inspected the case file and found that Affidavit Ex-PW1/A along with document Ex-P1 to Ex-P15 with statement of Examination in chief of PW-1 is in the case file but he was deferred for cross examination on the request of counsel of defendant for next date. That as per zimni order dated 16.05.2018 and 18.07.2018 the witness PW-1 Sh. Sudesh Kumar was present but could not be examined by the counsel of defendant and he requested for date which was allowed subject to cost of Rs.200/- on each date, i.e., Rs.400/- in total. That on 12.09.2018 after cross examination of PW-1 the counsel of plaintiff closed his oral evidence and requested a date for filing documents but surprisingly in the zimni order only statement of Advocate is mentioned. There might be possibility that cross examination got attached with some other files. As no cross examination of PW-1 is available in the case file and there is no order about cross examination so it would be presumed that no cross examination of PW-1 has taken place.

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SULVILL

ATTESTED

Examinor CJ (JD)

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- 3.7 That it is also clear from the zimni order dated 16.05.2018 and 18.07 2018 that the counsel of defendant got opportunity to cross examine the said witness which he intentionally has not been cross examined him on those dates.
- 4. That non examination of cross of PW1 might have caused inadvertently and unknowingly. The valuable rights of the plaintiff is involved in the suit and the lis between the parties should be decided on merits and not on technicalities. If the defendant wants to cross examine the PW-1 Sudesh Kumar than in that case the plaintiff is ready to bring PW1 Sh. Sudesh Kumar to be cross examined in order to remove the technicalities and if the defendant refused to cross examine him then in that case kindly consider and treat the examination of PW 1 as complete with opportunity given to Defendant.
- 5. That no prejudice will be caused to the defendant if the application to be cross examined of PW1 is allowed and same will be in the interest of complete
- 6. That previously the applicant has inadvertently moved an application under section 151 of CPC but there is a provision under Order 18 Rule 17 of CPC for recalling of examination and cross examination of witnesses at any stage so the applicant/plaintiff has withdrawn the said application and filed the present application in the interest of justice.

It is, therefore, prayed that kindly allow the plaintiff to recall/bring his witness PW-1 Sh. Sudesh Kumar for cross examination by defendant/his counsel under the provision under order 18 rule 17 r/w section 151 of CPC.

Date: 02.08.2019.

Applicant/plaintiff

Sh. Naveen Kumar Raghav s/o Sh. Chandersain Raghav through his SPA Sh. Sudesh Kumar s/o Sh. Dhoom Singh r/o Village Bhondsi, Tehsil Sohna, Distt. Gurgaon,

Tame Protocols

AFTESTED

Annex: 9/2 (17)

25/5/16 CA10-3 5/13 25/5/16 Minus F.E RUMING.	100 miles
IN THE COURT OF ADDITIONAL CIVIL JUDGE (SENIOR DIVISION), SOHNA	-)/6
Naveen Kumar Raghav Age 47 years son of Sh. Chandersain Raghav residence of 38 Strahan Road BOW LONDON Post Code E3 5DB England United Kingdom Through his SPA Sh. Sudesh Kumar s/o Sh. Dhum Singh r/o Village Bhondsi,	
Tehsil Sohna, District Gurgaon. (5) (6) (7) (7) (1) (1) (1)	159
Bhawani Singh son of Late Sh.Bharat Singh s/o Sh. Tuhiram residence of Village & Sh. T	95-8-16 5-8-15
Defendant. Suit for Permanent Injunction and Mandatory Injunction	
	•
The Plaintiff most resonant of the order 18-828 No D. C.H - 6-11-4	

Naveen Vs Bhawani

Present:- Sh. A.K.S. Raghav, counsel for the plaintiff.

Sh. Saurabh Raghav, counsel for the defendants.

Arguments heard on the application filed under Order XVIII

Rule 17 read with Section 151 Code of Civil Procedure.

Learned counsel for the applicant/plaintiff has argued that he has filed an application to obtain the cerified copy of evidence and then it came to know that there was no cross-examination of plaintiff on the case file. Further, he submitted that on 12.09.2018, after cross-examination of PW-1, he closed oral evidence but zimni order is silent about cross-examination of plaintiff. Further, he submitted that there may be possibility that cross-examination of plaintiff was attached with other case file and therefore, same is not available in the present case file. Further, he submitted that counsel for defendant got the opportunity to cross-examine the said witness which he intentionally has not conducted on 16.05.2018 and 18.07.2018. Further, he submitted that evidence of plaintiff is necessary to decide the present suit and therefore, plaintiff be allowed for cross-examination by defendant.

In this regard, he placed reliance on Mohd. Safi Bhatt & Ors. Vs

Mohd. Ahsan Bhatt & Ors. 2009(5) RCR (Civil) 233 (J&K) & Rose

Valley Hotels & Entertainments & Ors. Vs State of Orissa 2018(1)

OJR 190.

On the other hand, learned counsel for defendant has argued that there was no cross-examination was conducted and learned counsel for the plaintiff closed his evidence on 12.09.2018 without conducting the cross-examination which the lacuna on the part of plaintiff which cannot

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ATTESTED

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be fillup by filing present application. At last, he prayed for dismissal of the application.

4. File perused and it is clear that on 12.09.2018 learned counsel for the plaintiff closed his oral evidence vide separate statement. It is pertinent to mention here that there are no order with regard to conducting of cross-examination of plaintiff on 12.09.2018. In the present application, plaintiff has claimed that cross-examination of plaintiff was conducted on 12.09.2018 and thereafter, he closed his oral evidence. But, there are no substance in the contention of learned counsel for the plaintiff as he failed to furnish any certified/uncertified copy of evidence of plaintiff to say that same was misplaced from the judicial file or to say that same was attached in other case file. When plaintiff did not have any such record then it cannot be said that cross-examination of plaintiff was conducted on 12.09.2018 whereas zimni order dated 12.09.2018 was totally silient on this point. Hence, it is clear that on 12.09.2018, no such cross-examination of plaintiff was conducted and learned counsel for the plaintiff closed his oral evidence on 12.09.2018.

However, learned counsel for plaintiff has claimed that on 16.05.2018 and 18.07.2018 counsel for defendant got the opportunity to cross-examine the plaintiff but he intentionally did not conducting the same. Perusal of zimni order dated 16.05.2018 & 18.07.2018 shows that plaintiff was presented in the court for cross-examination but same was deferred on the request of learned counsel for defendant but it is duty of the plaintiff to appear on next date of hearing to complete the cross-examination but non-appearance of plaintiff is his own lacuna which cannot be fill up by filing present application.

ATTESTE EXAMINES

However, learned counsel for plaintiff has placed reliance on *Mohd*. Safi Bhatt case (supra) but finding of this authority is not applicable in the present case as facts are different as in the present application, plaintiff has claimed conducting of cross-examination of plainitff on 12.09.2018 and claimed same was attached with other case file but here plaintiff has not furnished any copy of cross-examination of plaintiff to corroborate the averments on application. In the same way, finding of Rose Valley Hotel Case (supra.) is not applicable in the present case as facts are different.

5. In view of above-said discussion, present application is not maintainable and same is hereby dismissed.

Now, case is adjourned to 02.09.2019 for rebuttal evidence, if

any and for argument.

Announced in Open Court:

Dated: 19.08.2019

Alok Anand, HCS (UID No.HR0396) Civil Judge (Jr. Divn.),

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Date of Delicary

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IN THE COURT OF ADDITIONAL CIVIL JUDGE (SENIOR DIVISION), SOHNA. 30)5/16 Naveen Kumar Raghav Age 47 years son of Sh. Chandersain Raghav residence of 38 Strahan Road BOW LONDON Post Code E3 5DB England United Kingdom Through his SPA Sh. Sudesh Kumar s/o Sh. Dhum Singh r/o Village Bhondsi, Bhawani Singh son of Late Sh.Bharat Singh s/o Sh. Tuhiram residence of Village 35-8-15

Suit for Pro-Tehsil Sohna, District Gurgaon. Anondsi, Tehsil Sohna, District Gurgaon. Suit for Permanent Injunction and Mandatory Injunction cest fied copy of the order 19-84 N-D.CH-6-11-1 **OUTESTEL** BI

Naveen Vs Bhawani

Present:- Sh. A.K.S. Raghav, counsel for the plaintiff.

Sh. Saurabh Raghav, counsel for the defendants.

Arguments heard on the application filed under Order XVIII

Rule 17 read with Section 151 Code of Civil Procedure.

Learned counsel for the applicant/plaintiff has argued that he has filed an application to obtain the cerified copy of evidence and then it came to know that there was no cross-examination of plaintiff on the case file. Further, he submitted that on 12.09.2018, after cross-examination of PW-1, he closed oral evidence but zimni order is silent about cross-examination of plaintiff. Further, he submitted that there may be possibility that cross-examination of plaintiff was attached with other case file and therefore, same is not available in the present case file. Further, he submitted that counsel for defendant got the opportunity to cross-examine the said witness which he intentionally has not conducted on 16.05.2018 and 18.07.2018. Further, he submitted that evidence of plaintiff is necessary to decide the present suit and therefore, plaintiff be allowed for cross-examination by defendant.

In this regard, he placed reliance on Mohd. Safi Bhatt & Ors. Vs

Mohd. Ahsan Bhatt & Ors. 2009(5) RCR (Civil) 233 (J&K) & Rose

Valley Hotels & Entertainments & Ors. Vs State of Orissa 2018(1)

OJR 190.

On the other hand, learned counsel for defendant has argued that there was no cross-examination was conducted and learned counsel for the plaintiff closed his evidence on 12.09.2018 without conducting the cross-examination which the lacuna on the part of plaintiff which cannot

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be fillup by filing present application. At last, he prayed for dismissal of the application.

4. File perused and it is clear that on 12.09.2018 learned counsel for the plaintiff closed his oral evidence vide separate statement. It is pertinent to mention here that there are no order with regard to conducting of cross-examination of plaintiff on 12.09.2018. In the present application, plaintiff has claimed that cross-examination of plaintiff was conducted on 12.09.2018 and thereafter, he closed his oral evidence. But, there are no substance in the contention of learned counsel for the plaintiff as he failed to furnish any certified/uncertified copy of evidence of plaintiff to say that same was misplaced from the judicial file or to say that same was attached in other case file. When plaintiff did not have any such record then it cannot be said that cross-examination of plaintiff was conducted on 12.09.2018 whereas zimni order dated 12.09.2018 was totally silient on this point. Hence, it is clear that on 12.09.2018, no such cross-examination of plaintiff was conducted and learned counsel for the plaintiff closed his oral evidence on 12.09.2018.

However, learned counsel for plaintiff has claimed that on 16.05.2018 and 18.07.2018 counsel for defendant got the opportunity to cross-examine the plaintiff but he intentionally did not conducting the same. Perusal of zimni order dated 16.05.2018 & 18.07.2018 shows that plaintiff was presented in the court for cross-examination but same was deferred on the request of learned counsel for defendant but it is duty of the plaintiff to appear on next date of hearing to complete the cross-examination but non-appearance of plaintiff is his own lacuna which cannot be fill up by filing present application.

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However, learned counsel for plaintiff has placed reliance on *Mohd*. Safi Bhatt case (supra) but finding of this authority is not applicable in the present case as facts are different as in the present application, plaintiff has claimed conducting of cross-examination of plainitff on 12.09.2018 and claimed same was attached with other case file but here plaintiff has not furnished any copy of cross-examination of plaintiff to corroborate the averments on application. In the same way, finding of Rose Valley Hotel Case (supra.) is not applicable in the present case as facts are different.

5. In view of above-said discussion, present application is not maintainable and same is hereby dismissed.

Now, case is adjourned to 02.09.2019 for rebuttal evidence, if

any and for argument.

Announced in Open Court:

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Dated: 19.08.2019

Alok Anand, HCS (UID No.HR0396)

Civil Judge (Jr. Divn.),

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Vakalat Nama

In the court of Pb. & Hry. H.C., Civil Revision - 6898	Chd.
Civil Revision - 6898	- 201
NOUCEN KUMAN RAGHAV Piff/Applt/Complaina	nt/Petitioner
Bygwan SINGH	N.
Defdf/Res	pdt/Accused
KNOW ALL to whom presents shall come that I/We phone	
the above named h	ereby appoint
Sh. Randhir Singh Hooda Advocate PUNJAB & HARYANA HIGH COURT CHAMBER NO. 51, CHANDIGARH #1090-A, SECTOR 4, PANCHKULA	te RT RH
(nerein after called the Advocate) to be myour Advocate in the abbone netections and admi	ābrise him:
To act appear and plead in the above noted case in the <u>Court</u> or in any other C the same may be fried or heard and also in the appellate court.	ourt in which
To sign, file and present Pleadings, Appeals, Cross-objections or Property Pleadings, Appeals, Cross-objections or Property Planting Plant	MIRA UNOVANA 5

To file and take back documents.

To withdraw or compromise, the said case or submit to arbitration I may arise touching or in any manner relating to the said case.

Revision, Restoration Withdrawal, Compromise or other petition, Replict documents as may be deemed necessary or proper for the prosecution ()

To take our execution proceedings.

To deposit, draw and receive moneys and grant receipts, therefore and to do all, other acts and things which may be necessary to be done for the process and in the court of the prosecution of the said case.

To appoint and instruct any other Legal practitioner authorising him to exercise the powers and authorities hereby confirmed upon the Advocate wherever he may think fit to do so.

AND I/We the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my/own acts, as if done by me/us to all intents and purpose.

And I/We undertake that I/We or my/our duly authorised agent would appear in the court on all hearing;

AND I/We the undersigned, to hereby agree not to hold the event of the above causes being taken up on tour, I/We shall pay extra fees.

And I/We the undersigned do hereby agree not to hold the Advocate or his substitute responsible for the result of the said cause in conscience of their absence from the court when the said cause in called up for hearing or for any negligence of the said Advocate or his substitute.

AND I/We the undersigned do hereby agree that in the event of the whole or any part of the fees agreed by me/us to be paid to the Advocate remaining unpaid, he shall be entitled to withdraw from the prosecution of the said cause until the same is paid up if any cost are allowed for an adjustment, the Advocate would be entitled to the same.

IN WITNESS WHERE OF I/We do here unto, set my/our to these presents the contents do

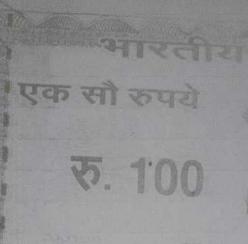
Randhir Singh Hooda Advocate CHAMBER NO. 51, CHANDIGARH #1090-A, SECTOR 4, PANCHKULA Mob. 92165-48999, 92161-31851



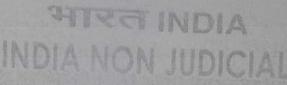
JANGVIB SINGH HOODA P/1035/1995 THUS Advocate PUNJAB & HARYANA HIGH COURT CHAMBER NO. 51, CHANDIGARH #1090-A, SECTOR 4, PANCHKULA Mobile: 9354488888, 9216131851

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मुखत्यारनामा खास

मै, नवीन कुमार राघव पुत्र श्री चन्द्रसैन राघव निवासी गावं भीण्डसी तह() सोहना जिला गुडगावां का हूं।

स्यह है कि मेरा एक रिहायशी मकान वाका मौजा भीण्डसी तह0 सोहना जिला गुड़गावां में स्थित है जिसका मैं अकेला मालिक व काबिज हूं जो कि एन. आर. आई होने कि वजह से में लंदन में अपने परिवार के साथ रहता हूं और अपने मकान कि देखभाल करने में असमर्थ हूं इसिलए अब मैंने अपने होश व हवास में बिना किसी दबाव व बहकावें के अपने उपरोक्त मकान कि देखभाल व अन्य प्रकार कि कार्यवाही करने के लिये अपने विश्वास पात्र मित्र (दोस्त) श्री सुदेश कुमार पुत्र श्री धूम सिंह निवासी गावं भौण्डसी तह0 सोहना जिला गुड़गावां को अपना मुखत्यार खास बना कर अख्यार देता हूं कि वह मेरी बजाये मेरे उपरोक्त रिहायशी मकान कि देखभाल करें मरम्मत करावे, कनैक्शन नल-बिजली प्राप्त करें उनके बिल कि अदायगी करें और यदि कोई किसी अन्य व्यक्ति द्वारा कोई दावा आदि या किसी प्रकार कि कोई हानी पहुंचाये तो उसके खिलाफ पुलिस व अदालत में मुकदमा दायर करके कार्यवाही करें किसी वकील (एडबोकेंट) को नियुक्त करें और उसकी पैरवी करें, यदि किसी प्रकार कि हलफनामा कि आवश्यक्ता ही किसी बिभाग में हो तो उसे भी दाखिल करें और मेरे द्वारा जो मुखल्यार खास (सुदेश कुमार) को इन सभी कार्यवाही करने के लिये जो रूपया मेरे द्वारा इसके खाले में भेजा जाता है उसे मुखन्यार (सुदेश कुमार) इन रूपयों को बैंक में पेश होकर प्राप्त करें और इस रकम को मेरी जायदिख कि

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देखभाल व अन्य जरूरी खर्चे पर खर्च करे मुखत्यार खास द्वारा मेरे रिहायशी मकान कि बाबत उपरोक्त किये हुए कार्य व अन्य जरूरी कार्य जो मेरे द्वारा किये जाने हो वह सभी मुखत्यार खास इंदारा किये हुये माने जाएगें जो मुझे मन्जूर होगें

अतः यह मुखत्यार खास लिख दिया है कि सनद रहे और समय पर काम आवें। , दिनांक :-04.12.2015

अआलब्द नवीन कुमार म्खत्यार खास ग्रेहता स्देश क्मार

गवाह: - समरवीर सिंह पुत्र श्री छिदा सिंह निवासी गावं भौण्डसी तह0 सोहना जिला गुडगावां Hale: - Welen F

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