

(2022-4)208 PLR 703
PUNJAB AND HARYANA HIGH COURT
Before: Mrs. Justice Manjari Nehru Kaul.
SAHIB SINGH SABI – Petitioner,
Versus
M/S BALBIR SINGH & SONS and another – Respondents/
CR-3773-2022

Evidence - Witness - Suit filed through attorney holder- Submission that plaintiff could not later on step into the witness box in support of his case - The respondent/plaintiff being the best witness in support of his case cannot be precluded from examining himself due to the suspicion of the petitioner that the plaintiff was attempting to fill in the lacunae in the case.

Cases referred to:-

1. 2019(2) AIR Kar. 111, *Smt. Leela Vijay Kumar v. Smt. Pooja P Kamath.*
Mr. Balram Singh, for the petitioner.

Manjari Nehru Kaul, J. (Oral) - (27th September, 2022) – The petitioner is impugning the order dated 15.07.2022 passed by the learned Trial Court vide which the application for rejection of the plaintiff's affidavit was dismissed.

2. Learned counsel submits that the impugned order is not in consonance with the settled principles of law. He has vehemently argued that the suit in question had been filed by the respondent/plaintiff through his power of attorney holder Balbir Singh. The said attorney holder had appeared in witness box as PW-2 and tendered his duly sworn affidavit in his examination-in-chief wherein he had categorically stated that he was fully conversant with the facts of the case. Not only this, thereafter said Balbir Singh was cross-examined by the counsel of the petitioner/defendant as well. However, subsequently to the utter surprise of the petitioner, the respondent/plaintiff himself appeared in the witness box as PW-3 and tendered his duly sworn affidavit in his examination-in-chief. Learned counsel has urged that once the attorney holder through whom the suit in question had been instituted and who while stepping into the witness box as PW-2 had categorically deposed that he was fully conversant with the facts of the case, therefore, the plaintiff in the circumstances could not subsequently get himself examined in support of his case. He has also submitted that the Trial Court had failed to appreciate that it was nothing but an attempt by the plaintiff to fill in the lacunae in the testimony of the attorney holder Balbir Singh. In support, learned counsel has placed reliance upon a judgment of the Karnataka High Court in *Smt. Leela Vijay Kumar v. Smt. Pooja P Kamath* ¹ 2019(2) AIR Kar R 111.

3. I have heard learned counsel and perused the relevant material on record.

4. This Court does not find any force in the submissions made by the learned counsel that as the suit in question had been filed through attorney holder, the plaintiff could not later on step into the witness box in support of his case. The respondent/plaintiff being the

best witness in support of his case cannot thus be precluded from examining himself due to the suspicion of the petitioner that the plaintiff was attempting to fill in the lacunae in the case.

4. It would not be out of context to observe here that the aim of every judicial process is to discover and arrive at the truth for just and effective adjudication of the matter in issue. The case law relied upon by the learned counsel would not come to his rescue as the impugned order cannot be said to be an abuse of the process of law much less fundamental principles of law and justice.

5. As a sequel to the above, this Court is not inclined to invoke its revisional jurisdiction and set aside the impugned order.

Accordingly, the instant revision petition being devoid of any merit is dismissed in limine.
R.M.S. – Petition dismissed.