

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CR No.1138 of 2015
Date of Decision: 04.03.2015**

Rajesh Kumar

...Petitioner

Versus

Suman Kumari

...Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. S.S.Kharb, Advocate for the petitioner.

SABINA, J.

Petitioner has filed this petition challenging the order dated 21.01.2015 whereby, application moved by the petitioner under Order 18 Rule 17 of the Code of Civil Procedure, 1908 ('CPC' for short) for recalling the respondent-Suman Kumari for further cross-examination, was dismissed.

Learned counsel for the petitioner has submitted that the petitioner had filed a petition under Section 13 of the Hindu Marriage Act, 1955 against the respondent for seeking a decree of divorce. The said petition was decreed in *ex parte* vide judgment and decree dated 05.11.2012. Thereafter, the respondent moved an application under Order 9 Rule 13 CPC, for setting aside the said judgment and decree. Respondent appeared as a witness before the trial Court. However, documents Ex.A1 to Ex.A11 were not supplied to the petitioner. Due to this reasons petitioner could not cross-examine the respondent qua the said documents. It was evident from the impugned order itself

that the copies of the said documents had not been supplied to the petitioner as the trial Court had directed the counsel for the respondent to supply copies of document Ex.A1 to Ex.A11 to the petitioner. Petitioner be granted only one opportunity to enable him to cross-examine the respondent vis-a-vis Ex.A1 to Ex.A11.

A perusal of the impugned order reveals that the trial Court while dismissing the application filed by the petitioner for recalling the respondent for further cross-examination has also asked the counsel for the respondent to supply documents Ex.A1 to Ex.A11 to the petitioner or his counsel. Thus, the trial Court was conscious of the fact that the documents Ex.A1 to Ex.A11 were not supplied to the petitioner. Now, petitioner only wants to cross-examine the respondent vis-a-vis documents Ex.A1 to Ex.A11.

In the facts and circumstances of the present case, it would be just and expedient to grant one opportunity to the petitioner to enable him to cross-examine the respondent vis-a-vis documents Ex.A1 to Ex.A11.

Accordingly, this petition is disposed of with the direction to the trial Court to grant one effective opportunity to the petitioner to enable him to cross-examine the respondent vis-a-vis documents Ex.A1 to Ex.A11 and thereafter proceed further with the case in accordance with law.

March 04, 2015

Manoj Bhutani

**(SABINA)
JUDGE**