

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

Civil Revision No. 2084 of 2014

Date of decision: November 28, 2015

Charanjit Kaur

-Petitioner

Versus

Harbans Singh & Ors

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. L.S. Sekhon, Advocate
for the petitioner.

Mr. Jatinder Singla, Advocate
for respondent No.1.

RAJ MOHAN SINGH, J. (ORAL)

[1]. Plaintiff has assailed order dated 15.02.2014 passed by Additional Civil Judge (Sr. Division), Sangrur whereby application filed by the plaintiff to get herself cross-examined by the defendants has been dismissed. Plaintiff alleged that she appeared as PW1 on 18.08.2011 and her cross-examination was deferred at the request of learned counsel for the defendants. Thereafter, she has been appearing regularly but learned counsel for the defendants never requested to get her cross-examined. Plaintiff further alleged that on 26.11.2013, her

lawyer inadvertently closed the evidence of the plaintiff after tendering documentary evidence. Non cross-examination of the plaintiff is claimed to be fault of the lawyer as the plaintiff always remained willing and ready to get herself cross-examined on each and every date. The application has been contested by the defendants by alleging that she has not come to the Court with clean hands as she is concealing interlocutory stages of the case between 18.08.2011 till 26.11.2013. Defendants have argued that the plaintiff was bound down vide order dated 18.08.2011 for the adjourned date i.e. 08.12.2011. On the said date, she did not turn up. In the interest of justice, case was adjourned to 12.04.2012. Again, the plaintiff did not turn up despite last opportunity. In the interest of justice, case was further adjourned to 14.05.2012. Another opportunity was granted to conclude the plaintiff evidence on 08.08.2012. On the adjourned date, neither the learned counsel for the plaintiff appeared nor the plaintiff came to the Court. Suit was ultimately dismissed for non-prosecution. Suit was restored on 30.10.2012 and one more opportunity was given to the plaintiff to lead evidence and case was accordingly adjourned to 07.12.2012.

[2]. Plaintiff again failed to lead any evidence and the case was again adjourned to 09.01.2013. Baldev Singh was examined as plaintiff witness but his cross-examination was deferred. The case was adjourned to 25.01.2013. No witness

came to attend the Court on the adjourned date and case was further adjourned to 30.01.2013. PW3 was cross-examined by the defendants but cross-examination of PW4 was again deferred. Despite grant of number of opportunities and examination of other witnesses during this intervening period, plaintiff herself never appeared in the Court and learned counsel for the plaintiff closed the evidence of the plaintiff on 26.11.2013 after tendering documentary evidence. Thereafter, defendants have also led their evidence. In the application, plaintiff has not mentioned the status of case between 18.08.2011 to 26.11.2013 and the pleadings are conspicuously silent.

[3]. When the suit was restored on 30.10.2012, plaintiff again failed to examine any witness and case was adjourned to 07.12.2012. Thereafter, despite number of opportunities till closure of the evidence by the learned counsel for the plaintiff, the plaintiff remained aloof and did not take any step to get herself cross examined by the defendants. Even the application for appointment of Local Commissioner was filed and decided on 02.08.2013. The report of the Local Commissioner was awaited till 14.08.2013 and the plaintiff had ample opportunity during this period for getting herself cross-examined. Since, apparent concealment of fact has been made, a party who has not come to the Court with clean hands, does not deserve any discretionary relief at the hands of the Court.

[4] In view of aforesaid, I do not find any illegality or error of jurisdiction in the impugned order passed by the trial Court. Accordingly, this revision petition is dismissed.

(RAJ MOHAN SINGH)
JUDGE

November 28, 2015
prince