

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

CR 3594 of 2015

Date of decision:- 25.5.2015

Mohan Lal

Petitioner

vs.

Bachna Ram @ Bachna

Respondent

Present: Mr. Rakesh Chopra, Advocate.

M.M.S.BEDI,J.

This is defendant's revision petition seeking the completion of examination and cross-examination of DW Nathu Ram, who is stated to be 82 years of age and an important witness i.e. witness to the memorandum of family settlement, being subject matter of the suit. It is claimed that he has appeared on a number of occasions but objection of piece meal evidence was raised on 20.3.2015 by the counsel for the plaintiff-respondent. The matter was deferred to 14.5.2015 though DW Nathu Ram was present along with Manjit Kumar, but his cross-examination was not conducted.

Counsel for the petitioner submits that the plaintiff- respondent is intentionally evading cross-examination of Nathu Ram. The next date of hearing is stated to be 28.5.2015 before the trial court.

I have considered the facts and circumstances of the case and I am of the opinion that the provisions of Order 17 Rule 2(e) CPC provides the legal authority of the court to pass an appropriate order even by dispensing with the cross-examination of the witness in case the opposite party is not ready to cross-examine the witness on his appearing in the

court.

This petition is disposed of with a direction that in case DW Nathu Ram comes present in the court on 28.5.2015 for cross-examination (as his examination-in-chief in the shape of affidavit under Order 18 Rule 4 CPC is already on the record with a copy to counsel opposite) and an application is filed by the defendant- petitioner under Order 17 Rule 2 (e) CPC for a direction for cross-examination of the said witness, the trial court shall make an earnest endeavour giving preference to the case, taking into consideration the age of the witness to ensure that cross-examination of Nathu Ram is completed. It is made clear that an order passed under Order 17 Rule 2(e) CPC dispensing with the cross-examination will entitle the court to read the statement of the witness at the time of adjudication of the case.

May 25 , 2015
TSM

(M.M.S.BEDI)
JUDGE