

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

CR No. 414 of 2013 (O&M)

Date of decision: December 21, 2015

Dharam Pal Garg

...Petitioner

Versus

Kanta Rani and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Deepak Thapar, Advocate,
for the petitioner.

Mr. JS Khattar, Advocate, for
Mr. Deepak Sharma, Advocate,
for the respondents.

K. KANNAN, J. (Oral)

1. The defendant, who had brought a witness had a statement though the counsel recorded that he was closing his evidence even before further cross-examination by the plaintiff, was confronted with the situation that the evidence given by the witness was not complete and, therefore, there was scope of the evidence being eschewed. The representation through the counsel is said to have been made on a wrong understanding of the order of the court when the court had recorded on 11.1.2012 that the presence of the witness is discharged.

2. I find the conduct of the defendant to be wholly indiscreet in not making proper understanding of what the court was stating and if there was any ambiguity, that ought to have been clarified with the Judge himself on that day. The defendant's conduct has unnecessarily stalled the proceedings for a further delay of three years. The interest of justice

requires that defendant's witness who was not cross-examined is brought back and his evidence must be re-opened for the purpose of cross-examination by the plaintiff, if he so chooses to do. For the delay caused by the indiscreet of the defendant, I impose cost of ₹20,000/- as payable by the defendant to the plaintiff within a period of four weeks from the date of receipt of a copy of this order. If the amount is paid, DW2 shall be recalled with liberty given to the plaintiff to cross-examine him and no further evidence will be permitted to be given by either side. If the amount is not paid, as directed, the impugned order already passed shall stand confirmed.

3. The revision is allowed on the above terms.

December 21, 2015
prem

(K. KANNAN)
JUDGE

