

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

(110)

CR No.4847 of 2015

Decided on: August 04, 2015.

Shamsher Singh @ Shera and another

.... Petitioners

Versus

Gurmeet Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Kulbhushan Soi, Advocate,
for the petitioners.

M.M.S. BEDI, J (ORAL)

This is defendant's revision petition against order dated 21.04.2015 passed by the Civil Judge (Senior Division), Moga treating the cross-examination of three witnesses of plaintiffs i.e. PW-3 Bhupinder Singh, PW-5 Manjit Singh and PW-6 Gurmeet Singh, as "NIL". Counsel for the defendants-petitioners failed to cross-examine the said witnesses.

I have heard learned counsel for the petitioners and gone through the impugned order.

The trial Court appears to have, compelled with the circumstances of failure on part of the defendants-petitioners to cross-examine the above said three witnesses, seem to have exercised discretion under Order 17 Rule 2 (e) CPC. Since the cross-examination of the plaintiff's witnesses was hampered by absence of counsel for the defendants, it was open to the Court to pass any appropriate order. So far as legal authority of the trial Court to pass such an order is concerned, there is no ambiguity but in the interest of justice and considering the prejudice which

is likely to be caused to the defendants by not cross-examining the witnesses produced by plaintiffs in a suit for recovery, I am of the considered opinion that one opportunity should be granted to the defendant-petitioner's counsel to cross-examine the witnesses subject to payment of costs of Rs.3,000/- each to the witnesses.

This petition is disposed of in limine. The order dated 21.04.2015 is hereby set aside with a direction that the trial Court shall fix one date of hearing after 18.08.2015, which is the next date of hearing before the trial Court, for appearance of PW-3 Bhupinder Singh, PW-5 Manjit Singh and PW-6 Gurmeet Singh. On said date, a costs of Rs.3,000/- each will be paid to the witnesses and an opportunity will be granted to the counsel for the defendants to cross-examine the said witnesses.

This petition has been disposed of in limine in order to avoid unnecessary expenditure and harassment to the plaintiffs-respondents, and for expeditious disposal of the trial. It is observed that in case the order is not acceptable to the plaintiffs-respondents, it will be open to them to file an application for review of the order.

(M.M.S. BEDI)
JUDGE

August 04, 2015
harsha