

CR No. 5096 of 2015

ARCHANA ARORA
2015.09.24 17:28
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IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 5096 of 2015

Date of decision : September 10, 2015

Balwinder Singh (deceased) through L.Rs and others

..... Petitioners

Versus

Vijay Kumar

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Manuj Chadda, Advocate
for the petitioners.

Mr. Raman Goklaney, Advocate
for the respondent.

Amit Rawal, J (oral).

The challenge in the present petition is to the impugned order dated 27.8.2014 (Annexure P-4) whereby the cross examination of the plaintiff has been treated to be nil, on account of the fact that the counsel for the petitioner-defendant did not cross examine the plaintiff. It has been submitted that on the same very day an application was moved for granting the permission to cross examine the witness of the plaintiff but the same has erroneously been dismissed vide impugned order dated 19.5.2015.

Learned counsel for the petitioner-defendant submits that if one opportunity is granted the counsel would cross-examine the plaintiff.

Mr. Raman Goklaney, learned counsel appearing on behalf of the respondent submits that on three dates the plaintiff had appeared as he was bound down for 27.8.2014 but neither the defendant nor his counsel ever turned up for cross-examination, therefore the defendant is adopting delaying tactics which should not

CR No. 5096 of 2015

be permitted.

I have heard learned counsel for the parties and appraised the paper book.

No doubt that the affidavit of the plaintiff was filed on 7.7.2014 and the next date given for cross-examination was 5.8.2014. However, on the said date the petitioner's-defendant's counsel did not cross examine and the matter was adjourned to 27.8.2014. On the said date also the counsel for the petitioner-defendant did not cross-examine and the cross-examination of the plaintiff was treated as nil. The application for grant of an opportunity to cross examine the witness was filed on the same day and the same had been dismissed, but the fact remains that the application had been moved seeking liberty of the court to cross-examine the plaintiff is itself a valid ground that the petitioner-defendant is not adopting delaying tactics. No prejudice would be caused in case the orders dated 27.8.2014 and 19.5.2015 are set aside.

Accordingly the orders dated 27.8.2014 and 19.5.2015 are set aside and the petitioner-defendant is granted an opportunity to cross examine the respondent-plaintiff in accordance with law on the next date which is 1.10.2015.

Accordingly the revision petition stands disposed of.

(AMIT RAWAL)
JUDGE

September 10 , 2015
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