

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

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Civil Revision No. 6086 of 2015 (O&M)

Date of Decision: December 18, 2015

Sukhdev Kaur and Ors.

-Petitioners

Vs.

Simarjeet Kaur and Ors.

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Ashish Verma, Advocate
for the petitioners.

Mr. Navjeet Singh, Advocate
for the respondents.

RAJ MOHAN SINGH, J. (ORAL)

{1}. Plaintiffs have assailed order dated 21.07.2015 passed by Civil Judge (Jr. Divn), Bathinda vide which cross-examinations of plaintiffs witnesses namely Harinder Singh and Simerjeet Kaur were treated to be nil and case was adjourned for further evidence of the plaintiffs. Petitioner sought review of the aforesaid order and the prayer was rejected vide order dated 13.08.2015 by observing that the defendants-petitioners had

already availed six opportunities for cross-examinations of the plaintiffs witnesses and, therefore, they have no right to cross-examine the witnesses of the plaintiffs. Recalling/review of the earlier order was thus rejected. Petitioner has assailed both the orders here in this petition on the ground that the plaintiffs took numerous opportunities to conclude their evidence. The evidence of the plaintiffs started w.e.f. 01.08.2015.

{2}. Perusal of the interlocutory orders passed from time to time reveals that the case was adjourned for 17.10.2014, 14.11.2014, 03.12.2014, 24.12.2014, 20.02.2015, 04.03.2015, 25.03.2015, 18.04.2015, 08.05.2015 and 26.05.2015. On 07.07.2015, PW Simerjeet Kaur was examined in part and for further cross-examination, it was adjourned to 09.07.2015. On 09.07.2015, defendants-petitioners sought time and on that very date, it was observed by the Court that no cogent reason has come forth seeking adjournment, however, adjournment was granted and they were bound down for 21.07.2015 for cross-examination. Last opportunity was given for cross-examination of the witnesses subject to payment of cost of ₹ 300/- to each of the witnesses of the plaintiffs.

{3}. On the adjourned date i.e. 21.07.2015, plaintiffs witnesses were not cross-examined nor cost was paid. The cross-examination of the witnesses was treated to be nil and

case was adjourned for remaining evidence of the plaintiffs.

{4}. Apparently, only two effective opportunities were granted to the defendants-petitioners on 09.07.2015 and 21.07.2015 wherein they failed to cross-examine the witnesses of the plaintiffs. The trial Court was fully competent to grant further opportunities to the defendants-petitioners keeping in view the number of adjournments granted to the plaintiffs even before passing of the impugned order dated 21.07.2015. The imposition of cost on the very next date i.e. 09.07.2015 seems to be directed towards early disposal of case, but the same cannot be done at the cost of natural justice and by curtailing reasonable opportunity to the defendants. The effort to get the order dated 21.07.2015 recalled also met with the same fate and the grounds on which recalling has been negated are wholly unsustainable in law even on the factual matrix appearing on record. No such opportunities ranging in six dates have been afforded to the defendants for cross-examinations of the plaintiffs witnesses. Apparently, only two opportunities are found to have been given on record inclusive of two opportunities that too subject to payment of cost.

{5}. Having considered the submissions made by learned counsel at the bar, I am of the view that defendants-petitioners are entitled to cross-examine the witnesses of the plaintiffs.

Keeping in view the pendency of suit and number of orders passed on record, it would be just and expedient to grant one more opportunity to the defendants-petitioners to cross-examine the plaintiffs witnesses. Since, the earlier awarded cost has not been paid, therefore, interest of justice would be met in case petitioners-defendants are further burdened with cost of ₹ 5000 in total (inclusive of earlier cost).

{6}. In view of the aforesaid, impugned orders are set-aside. Both the parties are directed to appear before the trial Court on the date fixed. Trial Court shall further fix a date for cross-examinations of the witnesses of the plaintiffs and thereafter, proceed to decide the suit in accordance with law. Payment of cost would be the condition precedent for allowing the aforesaid opportunity to the petitioner.

December 18, 2015

jyoti Y.

**(RAJ MOHAN SINGH)
JUDGE**