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

**Civil Revision No.6885 of 2015
Date of Decision: 15.10.2015**

**M/S TULSI DEVI EDUCATIONAL SOCIETY FOR WOMEN & ANR
.....Petitioners**

Vs

AGGARWAL BUILDERS & ANR

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Vijay Sharma, Advocate
for the petitioners.

1. *Whether Reporters of local papers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

RAJ MOHAN SINGH, J.(Oral)

[1]. Defendants have filed this petition against the order dated 04.09.2015 vide which recalling of order dated 09.03.2015 has been declined.

[2]. Cross-examination of PW-1 was fixed for 09.03.2015 and that was the last opportunity granted to defendants to cross-examine the witness who has appeared on number of occasions.

[3]. On 09.03.2015, PW-1 was present in trial Court. Learned counsel for the defendants No.1 and 2 sought adjournment which was opposed on the ground that the witness has appeared several times in Court for his cross-examination but the opposite party kept on seeking adjournments on one pretext or the other. Trial Court

thought it appropriate on earlier occasion and granted last opportunity to defendants No.1 and 2 to cross-examine PW-1. Finding the *bona fide* of defendants No.1 and 2 to be lacking on 09.03.2015, cross-examination of PW-1 was treated to be nill.

[4]. In an application for recalling of order dated 09.03.2015, learned counsel for the defendants No.1 and 2 pleaded that on 09.03.2015 he had to go to out of station for attending cremation at Naraingarh and he informed the trial Court also. Evidently presence of the Lawyer was recorded in the order dated 09.03.2015 and, therefore, plea of his going to Naraingarh for attending the cremation and informing the Court do not appear to be factually correct. Even after 09.03.2015, the case was adjourned to 13.03.2015. No such application for recalling of the order was made by the defendants No.1 and 2. Even thereafter the case was adjourned for 17.03.2015 and 25.03.2015 and no such prayer was made at that time also.

[5]. It has been pleaded that the defendants No.1 and 2 only came to know about the order dated 09.03.2015 on 30.03.2015 and that is how the present application came to be filed on 30.03.2015.

[6]. The trial Court has dealt with the controversy threadwise. No *bona fide* is found in favour of defendants No.1 and 2 for pursuing the case particularly when last opportunity was granted to the defendants No.1 and 2 to cross-examine the PW-1 on 09.03.2015. Learned counsel for the defendants No.1 and 2 was

very much shown present on that day in the order dated 09.03.2015.

No intimation was given to the Court, nor the application was filed on consecutive three dates following the date when cross-examination was found to be nill.

[7]. Having considered this issue, this Court does not find any substantial cause in favour of the petitioners to grant any indulgence. Petitioners remained negligent throughout and for that they cannot take plea that on account of fault of a lawyer, petitioners should not suffer.

[8]. In view of aforesaid, petition stands dismissed.

October 15, 2015

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(RAJ MOHAN SINGH)
JUDGE