

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

**CR No. 6711 of 2014
Date of decision : 20.10.2015**

Sanjeev Kumar Gulati and another

...Petitioners

Versus

Haryana Wakf Board and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sanjay Verma, Advocate
for the petitioner.

Mr. G.N. Malik, Advocate
for respondent No.1.

RITU BAHRI, J. (ORAL)

The petitioners have come in civil revision for setting aside the impugned order dated 23.07.2014 passed by the learned Civil Judge (Junior Division), Kurukshetra vide which the application under Order 18 Rule 17 CPC read with Section 151 CPC for recalling of witness namely Ayaz Mehmood, Estate Officer, Wakf Board, Kurukshetra for his cross-examination, moved by the petitioners and proforma-respondent has been dismissed as well as vide impugned order dated 19.03.2014 passed by the learned Civil Judge (Junior Division), Kurukshetra vide which opportunity for cross-examination of the witness i.e. PW-1 has not been granted.

Learned counsel for the parties have submitted that it is not in dispute that on 19.03.2014, defendant No.1 was proceeded ex parte and at the time of the cross-examination of PW-1, learned

counsel appearing for defendants No.2 to 4 made an application for providing a lawyer and a prayer was made on account of strike and date given for the cross-examination and the prayer has been declined by the trial Court in view of the fact that both the applications have been dismissed.

A reference was made to the judgment of Hon'ble Supreme Court of India, titled as '**Ajay Kumar Pandey v. Virender Saran**', **AIR 1998 SC 3299**, wherein it has been held that strike/boycott by the advocates is per se illegal and unethical and it amounts to gross professional misconduct.

A perusal of the order shows that defendants No.2 to 4 had made an application for providing a lawyer and defendant No.1 had been proceeded ex parte. Even if, the Advocates were on strike, the defendants had right to engage a lawyer to assist the Court for providing adjudication of the dispute between the parties.

The order deserves to be set aside on the ground that at the same time, once the lawyer is engaged by the defendants No.2 to 4, they can cross-examine PW-1 as well.

Consequently, order dated 23.07.2014 is set aside and one opportunity is granted to the petitioner for cross-examination of PW-1 by the counsel for defendants No.2 to 4.

Allowed accordingly.

20.10.2015
yogesh

(RITU BAHRI)
JUDGE