

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

Civil Revision No.6894 of 2014  
Date of decision: 05.02.2015

Joginder Singh

....Petitioner

Versus

Baljinder Pal Kaur and others

...Respondents

**CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA**

Present: Ms. Payal Mehta, Advocate for the petitioner.

Mr. Arnav Sood, Advocate for respondent No.1.

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**G.S.Sandhawalia J.(Oral)**

Challenge in the present revision petition filed under Article 227 of the Constitution of India by the petitioner-defendant is to the order dated 30.7.2014 (Annexure P/1) passed by the trial Court at Jalandhar whereby on account of evidence of the defendant not being present and on his failure to conclude his evidence despite numerous opportunities having been granted, his evidence was closed by order. The trial Court also noticed that the counsel for the defendant had suffered a statement that he would conclude his entire evidence on behalf of the defendant on the next date.

Counsel for the petitioner has vehemently submitted that the matter had been referred for compromise on 1.5.2014 and 14.5.2014 and prior to that the petitioner-defendant had submitted affidavit on 13.12.2013 and his cross-examination had been deferred on request of counsel for the plaintiff. It is accordingly submitted that in case his cross-examination is not conducted he would be adversely affected. Efforts were made to resolve the issue by the Mediation and Conciliation Centre of this Court on account of the fact that matter arises out of a matrimonial alliance and dispute was regarding immovable property. However, on account of failure report submitted by the Mediator, case

has come back for adjudication on merits.

Counsel for the respondent no.1 on the other hand submitted that the petitioner was to be present for cross-examination on the next date on 20.12.2013 and has referred to the zimini orders to show that prior to the matter being referred for compromise on 1.5.2014 and 14.5.2014, various opportunities had been given to the petitioner to appear for cross-examination but he had not appeared and therefore, the trial Court was well justified in passing the impugned order.

After perusal of the zimini orders, this Court is of the opinion that though no fault can be found with the well reasoned order passed by the trial Court in view of the fact that from 20.12.2013 the defendant has not opted to put in appearance in spite of repeated opportunities having been given. But since the background of the case pertains to the dispute regarding immovable property as such and the injunction which the plaintiff is seeking and the fact that in case the petitioner is not cross-examined, his evidence cannot be taken into account, an opportunity is granted to the petitioner to put in appearance before the trial Court for the purpose of cross examination subject to payment of ₹ 10,000/- as costs, to be paid to the respondent. The Court shall grant two effective opportunities to the petitioner-husband, to be present in Court, for cross-examination. It is made clear that in case there is any violation and non-payment of the costs, on the date fixed and in case the petitioner does not put in appearance before the trial Court, the order dated 30.7.2014 shall come into force again.

With the aforesaid observations, the present revision petition is allowed.

05.02.2015  
Pka

(G.S.SANDHAWALIA)  
JUDGE