

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

Civil Revision No.6998 of 2014 (O&M)

Date of decision: 09.07.2015

Mahinder Singh

.... Petitioner

versus

Anwar Singh and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Ms. Anupam, Advocate,
for the petitioner.

None for the respondents.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ?v

K.Kannan, J. (Oral)

1. An application for recall of the plaintiff for cross-examination on a finding that at the time when the defendant was called to cross-examination neither the defendant nor the counsel were present. The application had been filed for recalling the plaintiff's witnesses for cross-examination on a contention that the counsel was ill and he had to go to hospital. The court observed that the dismissal was justified and there was no warrant for recall of the order.

2. I find the order to be unrealistic and a needless penchant for technicality. There was no mistake in court denying cross-examination and closing the evidence when the defendant was not there, but when the defendant moves an application and sets out a plea that the counsel was unwell, it is bound to re-examine its own order in the light of a new fact which is brought to the attention of the court, a fact that was not available at the time when it originally passed the order. The Presiding Officer has unnecessarily let the party come to this court by failing to exercise the discretion which was surely available by adopting an unrealistic attitude to pass the order, the way it has done. The impugned order is set aside as untenable and the civil revision is allowed. The defence shall revive and the defendant shall have the liberty to cross examine the plaintiff. The trial will therefore progress in accordance with law.

(K.KANNAN)
JUDGE

09.07.2015
sanjeev