

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

(217)

**CR No.7376 of 2013 (O&M)
Decided on: April 24, 2015.**

Adifice Laboratories and others

.... Petitioners

Versus

Chattar Sain and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Kamal Chaudhary, Advocate,
for the petitioners.

Mr. Deepak Nayyar, Advocate,
for the respondents.

M.M.S. BEDI, J (ORAL)

This is a civil revision under Article 227 of the Constitution of India questioning the legality and propriety of order dated 19.08.2013 by virtue of which the trial Court in a suit of the plaintiffs-respondents has ordered that the cross-examination of the plaintiff-respondent Surender Kumar would be treated as NIL despite opportunity having been granted.

I have heard learned counsel for the petitioners and gone through the impugned order. It is apparent that the plaintiffs-respondents had filed a suit for mandatory injunction directing the defendants-petitioners to make payment of a sum of Rs.4,16,125/-, as per the account books maintained by the plaintiffs-respondents. No doubt, it is always open to the trial Court, in the exercise of powers under Order 17 Rule 2 (e) CPC to pass any appropriate order in case the counsel for the opposite side is not present or not ready to cross-examine the witness but at the same time it cannot be

ignored that rules are hand made of justice. The cross-examination of a

witness is not only an important tool in the hand of other party to elicit truth but it also enables the Court to arrive at a just conclusion. The opposite party also get an opportunity to impeach the credibility of the witness by cross-examining, which helps the Court to adjudicate the matter effectively.

In the interest of justice, I deem it appropriate to grant an opportunity to the defendants-petitioners to cross-examine Surender Kumar Aggarwal subject to payment of costs of Rs.10,000/-. The order dated 19.08.2013 is hereby set aside. It is ordered that one opportunity will be granted to the petitioners to cross-examine Surender Kumar. The trial Court shall fix the date requiring Surender Kumar to appear in the Court for cross-examination subject to petitioners first depositing a sum of Rs.10,000/-. It is made clear that in case costs is not deposited or the counsel for the petitioners fail to cross-examine the witness on the next date fixed by the Court, this petition will be deemed to have been dismissed.

The revision petition is allowed in the above terms.

(M.M.S. BEDI)
JUDGE

April 24, 2015
harsha