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

CR No.820 of 2015

Date of decision: April 22, 2015

Avtar Singh

.....Petitioner

Versus

Tek Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. T.S. Chandik, Advocate for
Mr. H.S. Dhandi, Advocate
for the petitioner.

Mr. Himanshu Puri, Advocate
for the respondent No.1.

SABINA, J

Petitioner has filed this petition challenging the order dated 26.08.2014, whereby evidence of the plaintiffs, was closed.

Learned counsel for the petitioner has submitted that a perusal of the order itself shows that the petitioner was present in the Court on the day, the order was passed. In fact, due to inadvertence, his cross-examination was not conducted on the said day. Co-plaintiff Lakhbir Singh has since died. Learned counsel has further submitted that the petitioner be given one opportunity to enable him to appear in the Court for the purpose of cross-examination.

Learned counsel for the respondent No.1, on the other hand, has opposed the petition.

A perusal of the impugned order reveals that on the day, the said order was passed, plaintiff was present with his counsel. It appears that due to some inadvertence, petitioner did not step into the witness box for the purpose of his cross-examination. In case, the petitioner is not cross-examined by the defendant, he will suffer an irreparable loss. Moreover, if one opportunity is granted to the petitioner to enable him to appear in the witness box for the purpose of cross-examination, the *lis* between the parties will be disposed of on merits. The other side can be compensated with costs.

Accordingly, this petition is allowed. Impugned order dated 26.08.2014, whereby evidence of the plaintiffs was closed, is set aside. Trial Court is directed to grant one effective opportunity to the plaintiffs to enable them to conclude their evidence at their own risk and responsibility, subject to payment of ₹5,000/- as costs. Costs be disbursed to the defendant. Thereafter, the trial Court shall proceed further with the case in accordance with law.

**(SABINA)
JUDGE**

April 22, 2015
m.singh