

In the High Court of Punjab and Haryana at Chandigarh

PARAMJIT KAUR SAINI
2016.03.03 16:30
I attest to the accuracy and
authenticity of this document

Civil Revision No. 1191 of 2016(O&M)
Date of Decision: 3.3.2016

Dev Raj and another

---Petitioners

versus

Gurpal Singh

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Ms. Rishma Verma, Advocate
for the petitioners

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J.

CM No. 4779-CII of 2016

Allowed as prayed for.

Annexures A to E are taken on record.

Civil Revision No. 1191 of 2016

The present petition lays challenge to order dated 11.1.2016 passed by the Civil Judge (Junior Division), Samrala, whereby application filed by the petitioners for recalling Sohan Lal PW1 and Manjit Kaur PW2 for their cross examination has been dismissed.

Counsel for the petitioners contends that the aforesaid witnesses tendered into evidence their affidavit by way of examination-in-chief on 26.4.2013 and their cross examination has been treated as nil.

Counsel representing the petitioners before the trial court was under the impression that as copies of affidavits filed by the witnesses were supplied to him on 26.4.2013, he would be entitled to cross examine them on the adjourned date but later, it came to his knowledge that cross examination of the witnesses has been treated as nil. It is further argued that the learned trial court has dismissed the application primarily on two counts namely no plausible ground has been mentioned and allowing application would amount to review of the order. According to counsel, a justifiable explanation has been given in the application that cross examination was treated as nil under a bona fide impression by counsel that he would get an opportunity to cross examine these witnesses on the next date as affidavits of the witnesses were supplied to him on 26.4.2013. Counsel has further submitted that case is still pending for recording of evidence of the respondent/plaintiff and the petitioners are ready to bear the expenses for recalling the witnesses and to pay costs, assessed by this Court. It is further submitted that a serious prejudice is likely to be caused to the petitioners in case they are not permitted to cross examine the witnesses Mohal Lal and Manjit Kaur.

I have heard counsel for the petitioners, perused the records and find merit in the petition.

Counsel representing the petitioners in para 2 of the application (Annexure P-3) has given an explanation as to the circumstances under which the witnesses were not cross examined on the date, they tendered into evidence their affidavits by way of examination in chief. The case is still

pending for evidence of the plaintiff. In the given circumstances of the case and keeping in view the interest of justice, the petitioners are allowed one opportunity to cross examine Sohan Lal PW1 and Manjit Kaur PW2 on their appearance in the Court subject to payment of costs of Rs. 2000/- plus the expenses for ensuring presence of the witnesses before the trial court on the date to be fixed by the court concerned.

Petition stands disposed of accordingly.

Before parting with the order, it is clarified that the petition has been disposed of without notice to the respondent in order to avoid inconvenience and incurring expenditure by the said respondent. However, if the respondent has any grievance to express, he shall be at liberty to file an appropriate application before this Court.

(Rekha Mittal)
Judge

3.3.2016

PARAMJIT