

In the High Court of Punjab and Haryana at Chandigarh

PARAMJIT KAUR SAINI
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Civil Revision No.1469 of 2016
Date of Decision: 26.2.2016

Amandeep Singh

---Petitioner

versus

Gurdeep Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Vijay Lath, Advocate
for the petitioner

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.

The present petition has been directed against orders dated 26.11.2015 and dated 7.1.2016 passed by the Civil Judge (Junior Division), Jalandhar whereby further cross examination of DW1 Sukhwinder Kaur, defendant No. 2 has been treated as nil and application filed by the petitioner for further cross examination of the witness has been dismissed, respectively.

Counsel for the petitioner would contend that though there was some lapse on the part of counsel representing the petitioner before the trial court to complete cross examination of Sukhwinder Kaur in time but the petitioner has already changed his counsel to avoid any such situation in future but a serious prejudice is likely to be caused in case the petitioner is not permitted to conduct further cross examination of Sukhwinder Kaur, one

of the defendants in the suit. It is further submitted that even otherwise the manner in which cross examination has been treated as nil, it gives an impression that counsel for the petitioner was present in the Court and he did not want to further cross examine Sukhwinder Kaur and in case the order is allowed to sustain, the same would be fatal to him in proceedings, if any, before a higher court in case his claim is not accepted by the trial court. The last submission is that the case is still pending for remaining evidence of the defendants and in case one opportunity is allowed to the petitioner, remaining cross examination of Sukhwinder Kaur would positively be concluded on the same date, she appears in the court for the purpose of cross examination.

I have heard counsel for the petitioner, perused the records and find merit in the submissions.

Learned trial court has treated further cross examination of Sukhwinder Kaur as nil after recording presence of counsel for the petitioner/plaintiff and opportunity having been given when otherwise perusal of the order dated 17.1.2016 does not say so whereby the application filed by the petitioner for recalling Sukhwinder Kaur for further cross examination has been dismissed. The case is still pending for remaining evidence of the defendants. A serious prejudice is likely to be caused to the petitioner in case he is not permitted to complete cross examination of Sukhwinder Kaur. There is no dispute that rules of procedure are handmaid of administration of justice and the same are to be applied to enhance the cause of justice. In the given circumstances of the

case, the impugned orders are set aside and the petitioner is allowed one effective opportunity to conclude cross examination of Sukhwinder Kaur DW1 subject to payment of costs of Rs. 5,000/- to be deposited with the trial court before the date to be fixed for cross examination of Sukhwinder Kaur and the same shall be released to Sukhwinder Kaur on the date, her cross examination is concluded.

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

(Rekha Mittal)
Judge

26.2.2016
PARAMJIT