

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 1559 of 2016
Date of decision : February 29, 2016

Surjit Singh

..... Petitioner

Versus

Jaswinder Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Jasbir Rattan, Advocate
for the petitioner.

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

Amit Rawal, J (oral).

The challenge in the present petition is to the impugned order dated 27.1.2016 whereby cross-examination of DW-2 has been treated as 'Nil'.

Learned counsel appearing on behalf of the petitioner submits that in case, one opportunity is granted the petitioner-plaintiff, through his counsel, shall cross-examine the aforementioned witness.

I have heard learned counsel for the petitioner and appraised the paper book.

The reason assigned for not cross-examining the

witness DW-2 is that on 7.1.2016 the trial court had adjourned the matter to 27.1.2016 for cross examination of DW-2 and directed that if the cross examination is not concluded on the next date the same was treated as Nil. Therefore, the court took such an extreme step. The zimini orders dated 7.1.2016 and 27.1.2016 reads thus:-

*“Present: None for the plaintiff
Sh. Anil Kaushal, Adv Id. Counsel for the defendant.*

Neither the plaintiff nor anyone on his behalf has come present. It is already 3.00 P.M. Case called out several times during the day. Adjourned to 27.1.2016 for awaiting the presence of the plaintiff. Adjourned to 27.1.2016 for defendant evidence subject to last opportunity. Cost of Rs.2000/- to be paid to DW2. It is made clear that if the cross examination is not concluded on the next date the cross-examination will be treated as NIL.

Order dated 27.1.2016.

*Present: Sh. S. K. Prashar, Adv.Id.counsel for plaintiff.
Sh. Anil Kaushal, Adv. Id. counsel for defendant.*

“Costs not paid. Cross examination of DW2 not concluded therefore, the cross-examination of DW2 is treated as opportunity given NIL. Now remaining Dws if any be produced on 9.2.2016.”

The non-cross-examination of DW-2, in my view, has rendered mis-carriage of justice to petitioner-plaintiff. No prejudice would be caused to the respondent-defendants in case, one opportunity is granted to the petitioner-plaintiff to cross examine DW-2.

Keeping in view the aforementioned fact, the impugned order is set aside. The revision petition is allowed. The petitioner-plaintiff is granted one opportunity to cross-examine DW-2 subject to payment of costs of ₹5,000/- to the respondents.

It is made clear that the payment of costs would be condition precedent before availing the opportunity to cross-examine DW-2.

(AMIT RAWAL)
JUDGE

February 29, 2016
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