

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

CR No.3773 of 2016(O&M)

Date of decision:29.7.2016

Sudesh Kumar Rohila

....Petitioner

VERSUS

Ramakant Rohila and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Sanjay Vij, Advocate for the petitioner.

REKHA MITTAL, J. (Oral)

CM No.14413-CII of 2016

The application is allowed as prayed for.

Document (Annexure P-3) is taken on record.

Disposed of accordingly.

CR No.3773 of 2016

The present petition has been directed against order dated 12.05.2016 whereby further cross examination of respondent No.1 at the behest of the petitioner/plaintiff has been closed for failure of counsel for the petitioner to make himself available for further cross examination in the post-lunch session on 12.05.2016.

Counsel for the petitioner has submitted that respondent No.1 was cross-examined on various dates including a part of cross examination on 12.05.2016 in the pre-lunch session and his remaining cross examination was deferred post-lunch. Counsel for the petitioner before the trial Court Sh. M.K. Dang, Advocate, was busy in some other case pending before another Judicial Officer and for that reason, the petitioner filed an

application dated 12.05.2016 for adjournment of the case for further cross examination of the witness but the same was disallowed by the Court with the observations that the petitioner/plaintiff has availed 9 effective opportunities for cross-examining the witness. It is argued with vehemence that the petitioner should not be put to loss despite his genuine difficulty as his counsel was busy arguing some other case and an application for adjournment was made. It is prayed that the petitioner may be allowed one opportunity to conclude remaining cross examination of Ramakant Rohilla – defendant (DW1).

Counsel has apprised the Court that after closing of further cross examination of DW1, there is no progress in the proceedings and the petitioner would ensure that cross examination of the respondent is concluded on the date to be fixed by the trial Court.

I have heard counsel for the petitioner, perused the paper-book particularly the application (Annexure P-2) and the impugned order (Annexure P-1).

The submissions made by counsel for the petitioner are borne out from the documents placed on record. It is a matter of fact that DW1 was partly cross-examined on 12.05.2016 and his remaining cross examination was deferred in the post-lunch session when counsel for the petitioner did not made appearance for doing the needful. An application was filed by the petitioner for deferring the cross examination but the same was declined. As the petitioner cannot be made to suffer due to his counsel being busy in some other Court in the post-lunch session on 12.05.2016, the petitioner is provided one effective opportunity for further cross examination of DW1 Ramakant Rohilla subject to payment of cost of Rs.10,000/- to the respondent on his appearing in the witness box. The

petitioner shall ensure that remaining cross examination is concluded on the date to be fixed by the trial Court as the respondent has already been cross examined at length in piecemeal on several dates starting from 07.12.2015. The witness would bring the records which he had brought in the post-lunch session on 12.05.2016 so that there is no further adjournment for his cross examination.

Before parting with this order, it is clarified that the petition has been disposed of without notice to the respondents in order to save them from unnecessary expenses and inconvenience. However, the respondents would be at liberty to file an appropriate application in case they have any grievance to express.

JULY 29, 2016

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no