

256

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

**Civil Revision No.3710 of 2017
Date of Decision: 24.07.2017**

JASPREET SINGH

.....Petitioner

Vs

BALBIR SINGH AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. H.S. Jugait Advocate
for the petitioners.

Mr. Sahil Gambhir, Advocate
for the respondents.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has assailed order dated 18.04.2017 passed by the Civil Judge (Sr. Divn.), Rupnagar vide which his evidence was closed by the order of the Court.

[2]. Brief facts are that the evidence of the plaintiff started w.e.f. 26.07.2016 and the case was adjourned for 15.09.2016. On 15.09.2016 PW-1 Jaspreet Singh was examined in Chief and his cross-examination was deferred at the instance of the defendants. The case was adjourned for 24.10.2016. On the adjourned date, no PW was present. Similarly, no PW was present on 08.12.2016. On 23.01.2017, PW-2 Inderjit Singh was examined in Chief and his cross-examination was also deferred at the instance of the defendants. No PW was present on

21.02.2017. On 08.03.2017, both PW-1 Jaspreet Singh and PW-2 Inderjit Singh were present for cross-examination. Their cross-examinations were ordered to be recorded by empanelled Local Commissioner. The file was ordered to be placed before the Local Commissioner for doing the needful. On 08.03.2017, itself the Local Commissioner partly recorded cross-examination of PW-1 Jaspreet Singh and PW-2 Inderjit Singh was duly cross-examined. The case was adjourned for 18.04.2017 for remaining cross-examining of PW-1 and remaining plaintiff evidence.

[3]. On 18.04.2017, no PW was present and in view of aforesaid orders, trial Court proceeded to close the evidence of the plaintiff by Order.

[4]. Learned counsel for the petitioner submitted that it is true that nine opportunities were granted to the plaintiff in all. Perusal of interlocutory orders on record reveals that on two occasions i.e. on 05.09.2016 and 23.01.2017, the case was adjourned for cross examination of plaintiff witness at the instance of the defendants.

[5]. Learned counsel also submitted that on 26.07.2016, the Lawyers had abstained from the work on account of call given by the Bar Council of India.

[6]. I have heard learned counsel for the parties.

[7]. Notice of motion was issued in this case on 24.07.2017 subject to deposit of Rs.2000/- with the High Court Legal Services Authority.

[8]. In compliance of the aforesaid order, an amount of Rs.2000/- has been deposited in the Registry.

[9]. Evidently, there is some omission on the part of the plaintiff in not remaining vigilant for leading evidence. PW-2 Inderjit Singh has already been cross-examined as per order dated 08.03.2017. Even PW-1 Jaspreet Singh has been partly cross-examined. Therefore, it would be in the fitness of things that cross-examination of PW-1 Jaspreet Singh be allowed to be fully done, subject to the payment of cost of Rs.8000/- to be paid to the respondents. Ordered accordingly.

[10]. It is made clear that only one opportunity shall be given by the trial Court for the plaintiff evidence at his own responsibility. Plaintiff shall not be entitled to avail any process of the Court in securing the presence of witnesses. Payment of cost shall be the condition precedent for granting indulgence by the trial Court in the aforesaid context.

[11]. Petition stands disposed of.

July 24, 2017

Atik

**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No