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

CR-4998-2015 (O&M)

Date of decision : 25.01.2016

Rattan Singh

...Petitioner

Versus

Khem Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ashok Kaushik, Advocate
for the petitioner.

Mr. Rajeev Sharma, Advocate
for the respondents.

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 present revision petition is for setting aside the order dated 07.07.2015, whereby the evidence of the petitioner for leading additional evidence already granted, has been closed vide order dated 28.10.2014 and thereafter an application seeking cross-examination of the Expert PW-4 has also been declined with the cost of ₹ 1,000/-.

Mr. Ashok Kaushik, learned counsel appearing on behalf of the petitioner submits that the trial Court, on the basis of the reasons assigned, allowed the application of the petitioner to lead additional evidence. The plaintiff had examined four witnesses, but, however, the Expert (PW-4) did not appear for cross-examination and on this ground, his evidence was closed on 28.10.2014. An application, in this regard, was moved which has also been declined on the ground that the Medical Certificate dated 25.08.2014, was submitted along with the application which shows that the Expert was absent from Duty on 25.08.2014 and 15.10.2014 and but no documentary evidence had been placed on record that on 28.10.2014, he was suffering from ailment, such observations are erroneous.

Mr. Rajeev Sharma, learned counsel appearing on behalf of the respondents submits that such a callous and tardy approach does not adhere to much less, rightly been rejected and the revision petition should be dismissed with the heavy cost.

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

The impugned order noticing the fact that the additional evidence granted to the petitioner-plaintiff was closed vide order dated 28.10.2014, as PW-4 did not appear for cross-examination. The Medical Certificate did not reveal the factum of ailment on 28.10.2014. I am of the view that though the approach of the petitioner-plaintiff, had been very careless, much

less, irresponsible, but for the purpose of adjudication of the *lis* between the parties, much less, to prevent any manifest injustice, I deem it appropriate to give one opportunity to the petitioner-plaintiff to offer the Expert PW4 for cross-examination, subject to the payment of cost of ₹ 10,000/-.

Accordingly, the impugned order is set aside and the petitioner-plaintiff is granted one opportunity to cross-examine the Expert PW-4, subject to the payment of cost of ₹ 10,000/-

The cost shall be paid to the learned counsel for the respondents in the High Court.

It is made clear that cost shall be a condition precedent.

With the aforesaid observations, the revision petition is allowed.

25.01.2016
yogesh

(AMIT RAWAL)
JUDGE