

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

CR No.5609 of 2016

Decided on.31.08.2016.

M/s Eon Electric Ltd.

.....Petitioner

Versus

M/s Gurkirpa Electricals and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Aman Bahri, Advocate
 for the petitioner.

DARSHAN SINGH, J. (Oral)

The present revision petition has been preferred against the order dated 12.07.2016 passed by the learned Civil Judge (Jr. Division), Mohali, vide which the cross-examination of the plaintiff-petitioner to DW-1 has been treated as “Nil”.

2. Learned counsel for the petitioner contended that in the trial Court, the plaintiff was represented by Sh. R.S.Rajput, Advocate, who normally practises at District Courts, Chandigarh. As he was busy in the District Court, Chandigarh, he was unable to reach District Court, Mohali. He further contended that on the previous dates, no evidence of the defendant was present. DW-1 has filed his affidavit only on 12.05.2016 and case was adjourned to 12.07.2016 for cross-examination. That was the first date for the cross-examination of DW-1 by the learned counsel for the plaintiff. Learned counsel for the petitioner pleaded that one opportunity may be given to the plaintiff to cross-examine DW-1.

3. I have duly considered the aforesaid contentions.

4. The perusal of the record shows that no evidence of the defendant was present on 18.03.2016, then on 08.04.2016 and then on 04.05.2016. DW-1 had appeared on 12.05.2016 and has tendered in

evidence his affidavit. His cross-examination was deferred and the case was adjourned to 26.05.2016. On that date, the Presiding Officer was on leave and the case was adjourned to 12.07.2016 when the cross-examination of the petitioner has been treated to be “Nil” simply on the ground that the counsel for the petitioner has not turned up though it was waited up to 1.00 p.m. Learned counsel for the petitioner has explained the reasons for the non-appearance of the counsel for the petitioner at that time which seem to be genuine. Moreover, that was the first date fixed for cross-examination of DW-1. The learned trial Court should not have taken such a harsh step to deny the right of cross-examination to the petitioner due to the single default on the part of his counsel.

5. Thus, keeping in view my aforesaid discussion, the present revision petition is hereby allowed. The impugned order dated 12.07.2016 is hereby set aside. Learned trial Court is directed to grant one opportunity to the petitioner-plaintiff to cross-examine DW-1 subject to payment of Rs. 5000/- as costs. Learned counsel for the petitioner informs that the case is listed before the learned trial Court on 01.09.2016 i.e. tomorrow. So, the cross-examination will be conducted on the next date of hearing to be fixed by the learned trial Court.

6. This order has been passed without issuing notice to the respondents as issuance of the notice would have delay the disposal of the suit, which is stated to be at the rebuttal evidence and arguments stage and it would have also unnecessarily burdened the respondents with litigation costs.

31.08.2016
S.khan

(DARSHAN SINGH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No