

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

CR No.6209 of 2016(O&M)

Date of decision:21.9.2016

Bhupinder Kaur and others

....Petitioners

VERSUS

Harjit Singh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Anil Chawla, Advocate for the petitioners.

REKHA MITTAL, J. (Oral)

By invoking Article 227 of the Constitution of India, the present petition directs challenge against order dated 23.08.2016 (Annexure P-1) passed by the Civil Judge (Junior Division), Amritsar disposing of the application filed by the respondent/defendant.

Counsel for the petitioner/plaintiff has submitted that DW-3 Harjit Singh was cross-examined on a number of occasions i.e. 27.01.2016, 05.02.2016, 12.02.2016, 17.02.2016, 22.03.2016, 01.04.2016, 11.4.2016 and thereafter he did not turn up for his further cross examination and before his evidence was closed, another witness DW-4 was examined. It is argued with vehemence that as the respondent/defendant did not bother to tender himself for further cross examination despite large number of opportunities granted for the purpose, the trial Court has committed an error rather illegality by showing benevolence towards the respondent/defendant and permitting him to be further cross-examined by the petitioner/plaintiff.

Another submission made by counsel is that the Court has permitted cross examination of DW-1 when it was never prayed for in the application and that too without imposing any cost upon the respondent.

I have heard counsel for the petitioner, perused the paper-book particularly the order impugned.

First of all, mentioning of DW-1 in the concluding line of the impugned order appears to be the result of a typographical mistake as the application was filed in regard to DW-3, the defendant himself. It is an admitted position of the case that the defendant was cross-examined on several occasions detailed hereinbefore. In case, his further cross examination is not concluded, it would be of serious consequence for the defendant as his statement already recorded on several occasions may not be read into evidence. It appears that counsel for the defendant closed evidence without ensuring that cross-examination of defendant is completed, though he has been cross examined in piecemeal on various dates. The rules of procedure are handmaid of administration of justice and required to be applied to serve its cause and not to scuttle the same.

In the given facts and circumstances, I do not find any reason to interfere in the discretion exercised by the trial Court in order to achieve that a fair opportunity is provided to each of the parties for producing relevant materials on record.

For the foregoing reasons, finding no merit, the petition is dismissed.

SEPTEMBER 21, 2016

‘D. Gulati’

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no