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

CR-6803-2015

Date of Decision : May 31st, 2016

Paramjit Singh and others

.... Petitioners

Versus

Ajit Singh

.... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

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| 1. Whether Reporters of local papers may be allowed to see the judgment? | Yes |
| 2. To be referred to the Reporters or not? | |
| 3. Whether the judgment should be reported in the Digest? | Yes |

Present Mr. Malkeet Singh, Advocate,
for the petitioners.

Mr. B.S.Bali, Advocate,
for the respondent.

SHEKHER DHAWAN, J.

Present revision petition by the defendants under Article 227 of the Constitution of India for setting aside order dated 22.09.2015 [Annexure P/3] passed by learned Civil Judge [Junior Division], Phillaur whereby application of the respondent-plaintiff for recalling of order dated 4.8.2015 [Annexure P/1] vide which evidence of the respondent-plaintiff was closed, was allowed.

2. Learned counsel for the petitioners submitted that the Court below fell in error while accepting the application for recalling the order dated

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4.8.2015, Annexure P/1, by allowing Ajit Singh to be cross-examined by the defendants. The Court has no power to review its own order and as such, the order Annexure P/3 be set-aside.

3. Learned counsel for the respondent submitted that there was no illegality in the order, Annexure P/3 passed by the Court below because the same was passed just to complete the evidence and to record cross-examination of PW-1 and thus, the present petition be dismissed.

4. Having considered the submissions made by learned counsel for the parties, this Court is of the considered view that evidence of Ajit Singh was already available on the file and he was partly cross-examined on 13.5.2015. Law on the point is settled that statement of a witness, if recorded in part, cannot be looked into being incomplete evidence. For that purpose, the Court below has rightly exercised the power to allow further cross-examination of Ajit Singh, especially when his examination-in-chief and part cross-examination had already been done. The Court below rightly placed reliance upon judgment of this Court in **Santosh Kumar Berry Vs. Nirmala Devi and others**, 2013 (1) PLR 404, wherein Co-ordinate Bench of this Court observed as under:-

“3. In this case, the Court did not employ appropriate resourceful approach. Suffice it to say to point out that if there ever be an occasion when the side is closed and a petition is filed for reopening the same, the Court shall not normally dismiss the petition but shall consider giving an opportunity subject to appropriate terms as to costs, except in extreme circumstances of manifest contumacious conduct or there is seen an attempt to harass the other side by deliberate delays...”

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5. The facts of the case in hand are quite identical because the evidence of the plaintiff was closed and the application was filed for re-opening of the same. The Court below has already passed order regarding payment of costs as well to compensate the other party. The Court below has also made it clear that thereafter the defendants would be given fair opportunity to lead their evidence and to rebut evidence led on record by the plaintiff. That way, the interest of the present petitioners has already been protected by the Court below.

6. There is absolutely no illegality in the order dated 22.09.2015 [Annexure P/3] and the present petition is without any merit and the same stands dismissed.

(SHEKHER DHAWAN)
JUDGE

May 31st, 2016
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