

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

CR No.7485 of 2016(O&M)

Date of decision:9.11.2016

Chuhar Singh and anotherPetitioners

VERSUS

Lakhvir SinghRespondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mrs. Manjari Joshi, Advocate for the petitioners.

REKHA MITTAL, J. (Oral)

The present petition directs challenge against order dated 13.10.2016 (Annexure P-3) passed by the Civil Judge (Junior Division), Gurgaon whereby evidence of the petitioner/defendant has been closed by order.

Counsel for the petitioners has submitted that though the petitioners have availed five effective opportunities to lead evidence but Manjit Kaur-petitioner No.2 tendered into evidence her affidavit by way of examination in chief and was not cross examined on that day. It is further argued that in case, the petitioner is not permitted to step into the witness box for cross examination, her statement would not be read into evidence and the case would be rendered a case of no evidence by the petitioners/defendants by way of rebuttal to evidence adduced by the plaintiff who has filed a suit for recovery of Rs.16,00,000/- along with interest on account of damages. It is prayed that in the interest of

substantial justice, the petitioners may be allowed one opportunity to tender Manjit Kaur in the witness box for her cross examination.

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

Be that as it may, counsel for the petitioners has fairly conceded that the petitioners have availed number of opportunities for adducing evidence but examined only Manjit Kaur PW-1 in part. As Manjit Kaur has already tendered into evidence her examination in chief by way of affidavit, it would be in the interest of justice as well as fair opportunity to the parties to prove their respective claims that the petitioners are provided with one opportunity to tender Manjit Kaur in the witness box for her cross examination by the respondent/plaintiff subject, however, to the following conditions:-

- 1) Manjit Kaur shall ensure her presence before the trial Court on 11.11.2016, the date already fixed.
- 2) She shall be cross examined on that day by the contesting party.
- 3) The petitioners shall deposit Rs.5,000/- in the trial Court well before cross examination of Manjit Kaur and the same shall be released in favour of the respondent/plaintiff as per rules.

Failure of the petitioners to comply with any of the aforesaid conditions would entail deemed dismissal of the petition.

Before parting with this order, it is clarified that the petition has been disposed of without notice to the respondent in order to save him

from unnecessary expense and inconvenience. However, the respondent would be at liberty to file an appropriate application in case he has any grievance to express.

NOVEMBER 9, 2016

‘D. Gulati’

(REKHA MITTAL)

JUDGE

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