

Civil Revision No.8683 of 2016

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In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No.8683 of 2016

Date of Decision: 22.12.2016

Ms. Ruchi Ahuja

--- Petitioner

versus

Mr. Dinesh Kumar and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Kunal Dawar, Advocate
for the petitioner**

**Mr. Arvind Rajotia, Advocate
for the caveator-respondent No. 1**

Rekha Mittal, J.

The present petition directs challenge against order dated 3.12.2016 (Annexure P-1) passed by the Civil Judge (Junior Division), Faridabad whereby further cross examination of respondent/defendant No. 1 has been treated as nil.

Counsel for the petitioner has submitted that on 3.12.2016, a part of cross examination of respondent DW-1 was conducted and further cross examination was deferred with the remarks 'Court time is over', recorded by the Local Commission appointed for examination of the witness but still the court has treated the remaining cross examination as nil denying a valuable right of the petitioner. It is further submitted that the petitioner may be provided with one opportunity to conclude cross examination of the respondent /defendant No. 1 and she would ensure that cross examination is completed in a single sitting, if so allowed.

Counsel for the caveator/respondent No. 1 has submitted that the trial court in unnumbered para 2 of the impugned order has noticed conduct of the petitioner on the basis whereof, her right to further cross examine the respondent/defendant has been closed. It is argued with vehemence that if counsel for the petitioner did not bother to come to the Court in time and allowed the proceedings to linger on till 4 O'clock, she cannot be allowed to take advantage of her own wrong.

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

The present litigation is the result of marital disharmony

between the petitioner and respondent No. 1 and the present lis pertains to some property in regard whereof, the petitioner wife has filed a suit for declaration, permanent and mandatory injunction. It is undisputed position that on 3.12.2016, a part of cross examination of the respondent/defendant was conducted and the Local Commissioner assigned with the job deferred further cross examination with the remarks that 'court time is over'. There may be some delay on part of counsel representing the petitioner in starting or re-starting cross examination resulting in the proceedings being conducted till 4 O'clock but still the petitioner cannot be denied her right to complete cross examination of the respondent/defendant. Taking into consideration the principle of fair opportunity as well as natural justice, the petitioner is provided with one opportunity to complete cross examination of the respondent/defendant but subject, however, to the condition that she will ensure that cross examination of the respondent/defendant is concluded in a single sitting on the date to be fixed by the trial court. The trial court shall ensure that cross examination of the respondent starts at 11-00 a.m. sharp and the same is concluded on the very same day.

With these observations, the petition stands disposed of.

Before parting with this order, it is pertinent to mention that

counsel for the parties are *ad idem* that respondent/defendant is the last witness to be examined in the proceedings. After conclusion of cross examination of the respondent/defendant, the trial court shall ensure to dispose of the suit expeditiously preferably within a period of two months.

(Rekha Mittal)
Judge

22.12.2016

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No