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

CR-8922-2015

Date of decision : 04.02.2016

Rahul Batra

...Petitioner

Versus

Mohan Lal Batra and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. H.K. Aurora, Advocate
for the petitioner.

Mr. Lakhwinder Singh Mann, Advocate
for respondents No.2 and 3.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

AMIT RAWAL, J. (ORAL)

Learned counsel for the petitioner produced *dasti* summons in Court and as per the same, respondent No.1 has died and respondent Nos.2 and 3 have been served.

Mr. Lakhwinder Singh Mann, Advocate has put in appearance on behalf of respondents No.2 and 3 and filed his vakalatnama and the same is taken on record.

Learned counsel for the petitioner further submits that the respondent No.4 is not necessary party.

The petitioner is aggrieved of the order dated 18.09.2015, whereby the cross-examination of PWs namely Raj Kumar, Abhinav Gupta and Rakesh Batra has been treated as Nil.

Mr. H.K. Aurora, learned counsel appearing on behalf of the petitioner submits that the counsel for the defendant was not available as there was a *kirya* ceremony on account of death of his *chacha* (uncle), but the Court did not grant the adjournment by observing that previously also the defendant was absent and the defendant was proceeded ex parte vide order dated 22.09.2014. and the case was adjourned for cross-examination.

Mr. Lakhwinder Singh Mann, learned counsel appearing on behalf of respondents No.2 and 3, submits that there is no illegality and perversity in the impugned order.

I have heard the learned counsel for the parties and appraised the paper book.

Zimini orders show that on some occasion the PWs were not present. For the first time, PWs were examined on 20.02.2015 and the matter was adjourned for cross-examination. On some occasion, Pws were not present despite the counsel for the petitioner-defendant was present.

I am of the view that in order to prevent the manifest in justice, one opportunity is granted to the petitioner-defendant to cross-examine the aforementioned PWs subject to the payment of cost of ₹ 2,500/-.

Accordingly, the impugned order dated 18.09.2015 is hereby set aside and the petitioner-defendant is granted one opportunity to cross-examine the PWs namely Raj Kumar, Abhinav Gupta and Rakesh Batra subject to the payment of cost of ₹ 2,500/-.

It is made clear that cost shall be a condition precedent.

With the aforesaid observations, the revision petition is allowed.

04.02.2016
yogesh

(AMIT RAWAL)
JUDGE