

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

CR-1017-2017

Date of decision: 14.2.2017

Jatinder Singh

...Petitioner

Versus

Brijnder Singh and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.ADS Sukhija, Advocate for the petitioner

SNEH PRASHAR, J.

The petitioner is aggrieved of the order dated 21.1.2017 passed by learned Civil Judge (Junior Division), Mohali vide which the cross-examination of DW2 and DW3 was treated as 'Nil'.

The submissions made by Mr.ADS Sukhija, Advocate representing the petitioner have been considered.

The petitioner- plaintiff filed a suit for declaration to the effect that he is owner in joint possession of 1/2 share of plot No.C-18, Industrial Area, Phase-I, Mohali.

Learned counsel for the petitioner submits that the counsel of the petitioner was busy before some other Court and could not appear

only at 3.30 PM before the trial Court and therefore, he could not cross-examine DW2 and DW3 on 21.1.2017. For the lapse on the part of the counsel, the petitioner should not be made to suffer. Submitting that non- cross-examination of DW2 and DW3, who are important and material witnesses, will cause irreparable loss to the petitioner, learned counsel prayed that just one more opportunity be granted to cross-examine them.

Indeed, non cross-examination of the witnesses by the petitioner will prejudice the case of the petitioner as it will amount to admission on his part of the facts stated by the witnesses. Thus, in the interest of justice, to avoid unnecessary delay in the matter notice is not being issued to the respondents. In my considered opinion, the petitioner deserves to be given one last opportunity to cross-examine DW2 and DW3. The evidence recorded in due process of law will also help the trial Court to better appreciate the issues involved and render substantial justice to the parties.

Resultantly, without going into merits of the case, the present revision petition is allowed. The order dated 21.1.2017 is set aside to the extent of cross-examination of DW2 and DW3 and learned trial Court is directed to grant one effective opportunity to the petitioner to cross-examine the said two witnesses subject to deposit of Rs.3000/- as cost with the District Legal Services Authority, Mohali by the petitioner.

However, it is made clear that if the petitioner fails to cross-examine the said defence witnesses on the date so fixed by learned trial Court, no further opportunity shall be granted to him.

14.2.2017
gsv

(SNEH PRASHAR)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No