

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

CR No.1078 of 2017

Date of Decision: 14.07.2017

Brijinder Singh
Versus

.....Petitioner

Jatinder Singh and others

... Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Mohinder Kumar, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.(ORAL)

On 05.07.2017, following order was passed:-

“Learned counsel for the petitioner submits that witnesses viz. DW 2 and DW3 produced by the petitioner/defendant could not be cross examined by the plaintiff and as a result of that the cross examination of aforesaid witnesses was treated to be nil at the instance of plaintiff. At the same time, evidence of the defendant was also closed vide order dated 21.01.2017. The said order was assailed by the plaintiff in CR No.1017 of 2017. This Court vide order dated 14.02.2017 allowed the revision petition even without issuing notice to the petitioner/defendant and DW 2 and DW3 were ordered to be cross examined by the plaintiff subject to payment of costs of Rs.3000/- to be deposited with the District Legal Services Authority, Mohali. The same impugned order has been assailed by the petitioner to the extent of closing the evidence of the defendant by order of the Court. Notice of motion was issued on 17.03.2017. Thereafter, the case was adjourned by order. Since the connected revision

petition has already been allowed and the same was argued by Mr. ADS Sukhija, Advocate for the plaintiff Jatinder Singh, therefore, information be sent to the office of Mr. ADS Sukhija, Advocate about the enlisting of the case.

Adjourned to 14.07.2017.”

Mr. A.D.S, Sukhija, Advocate accepts notice on behalf of respondent No.1. Mr. Aman Sharma, Advocate appears on behalf of respondents No.4 and 5.

Learned counsel for the petitioner submits that respondent No.1 is the only contesting respondent and service qua respondents No.2 and 3 be dispensed with at this stage. Ordered accordingly.

Witnesses viz. DW 1 and DW 3 were produced by the defendant, but could not be cross examined by the plaintiff and as a result of that, the cross examination of the said witnesses was treated to be *nil* at the instance of the plaintiff. On that very day, the evidence of the defendant was also closed. Against the order vide which cross examination of the witnesses was treated to be *nil*, plaintiff filed **CR No.1017 of 2017** titled **Jatinder Singh Vs. Brijinder Singh and others**. The said revision petition was allowed on 14.02.2017 by the High Court even without issuing notice of motion to the petitioner/defendant. As a result of order dated 14.02.2017, witnesses DW 1 and DW 3 were ordered to

be cross examined by the plaintiff subject to payment of cost of Rs.3000/-.

Learned counsel for respondent No.1 very candidly submits that the amount of cost has already been deposited with the District Legal Services Authority, Mohali. The same impugned order dated 21.01.2017 has been assailed in this revision petition with a grouse that the evidence of the defendant was also closed vide order of the even date and in view of acceptance of CR No.1017 of 2017, the evidence of defendant should have been allowed to proceed. It is informed that the case is at the stage of rebuttal evidence and arguments.

Keeping in view the facts and circumstances of the case, it would be appropriate to allow the defendant to avail one opportunity for leading his remaining defence evidence without availing any assistance of the Court in summoning the witnesses. It shall be the responsibility of the petitioner to secure the presence of the witnesses of its own. This opportunity shall however be subject to cost of Rs.5000/- to be deposited by the petitioner in District Legal Services Authority, Mohali. Payment of cost shall be the condition precedent for granting indulgence by the trial Court in the aforesaid context. In the event of examining the defendant witnesses, plaintiff shall be having the right of cross examination.

This revision petition is accordingly disposed of.

14.07.2017
prince

(RAJ MOHAN SINGH)
JUDGE

Whether Reasoned/Speaking

Yes/No

Whether Reportable

Yes/No