

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

CR No.1108 of 2017.

Date of Decision: 15.02.2017.

Bimla Devi and others

....Petitioners.

VERSUS

Sardari Lal and another

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Ms. Ravinder Kaur Manaise, Advocate
for the petitioners.

SNEH PRASHAR, J.

The instant revision petition is directed against the order dated 19.01.2017 passed by learned Civil Judge (Junior Division), Naraingarh by virtue of which the evidence of the plaintiffs-petitioners was closed by order.

The submissions made by Ms. Ravinder Kaur Manaise, learned counsel representing the petitioners have been considered.

Learned counsel for the petitioners contends that during evidence of the petitioners, Davinder Lal (petitioner No.2) had appeared for his statement on 30.09.2015. His examination in chief was recorded but on request of counsel for the defendants, cross-examination was deferred.

Thereafter, he appeared for his cross-examination but the respondents filed

an application under Order VII Rule 11 of the Civil Procedure Code for

rejection of plaint which they ultimately got dismissed as not pressed. Due to certain unavoidable circumstances, no witness of the plaintiffs could be examined thereafter whereas examination of the plaintiffs and proving of certain documents is essential for proper and complete adjudication of the case. Learned counsel submits that in case PW1 Davinder Lal is not allowed to be cross examined by the respondents, his examination in chief will also not be read in evidence and that will cause serious prejudice to the case of the petitioners.

Perusal of the orders reproduced in the petition by the petitioners outrightly indicate that numerous opportunities had been availed by the petitioners for adducing their evidence. Although at the first instance, the cross-examination of Davinder Lal (petitioner No.2) was deferred on the request of learned counsel for the defendants-respondents, but the subsequent orders of learned trial Court do not show that on any date of hearing he was present for his cross-examination.

Anyhow, considering the fact that the examination in chief of Davinder Lal (petitioner No.2) has already been recorded and in case his testimony is left without cross-examination by the respondents, his examination in chief will also not be read in evidence and that will indeed adversely affect the case of the plaintiffs, one opportunity for him to appear for his cross-examination deserves to be given in the interest of justice.

In order to avoid further delay in disposal of the case, notice is not being issued to the respondents. Learned trial Court is directed to give one effective opportunity to the petitioners for their evidence i.e. for appearance of Davinder Lal (petitioner No.2) for his cross-examination and

deposited by the petitioners with the Legal Aid Authority. In the said terms,
the petition is allowed.

(SNEH PRASHAR)
JUDGE

15.02.2017.
jitender sharma

Whether speaking/ reasoned : **Yes/ No**
Whether Reportable : **Yes/ No**