

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

CR No.1563 of 2016 (O&M)

Date of decision : 23.08.2017

Smt. Amrita Singh alias Smt. Amrit Kaur and others ...Petitioners

Versus

Brig. Jasbir Singh (Retd.) and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Satbir Singh Katnoria, Advocate for the petitioners.

Mr. A.K. Sinha, Advocate for the respondent No.1.

ANIL KSHETARPAL, J. (ORAL)

The defendants-petitioners have filed this revision petition against the order dated 05.02.2014.

A reading of the order would show that the defendants have been delaying the trial of the suit on one pretext or the other. This Court had directed the examination of the plaintiff who is not able to move out of Dehradun through a Local Commissioner. Senior most counsel was assigned this duty. A report of the counsel who was appointed as Local Commissioner shows that the examination of the plaintiff was delayed on one pretext or the other. Ultimately, the Local Commissioner had deferred the cross-examination as counsel for the defendants-petitioners had refused to cross-examine the witness.

On the basis of the report, learned trial Court has closed the opportunity of the defendants to cross-examine the plaintiff.

From the facts available on the file, it is apparent that the

defendants have been making all efforts to delay the trial of the suit. Suit was filed in the year 2008. Defendants even filed an application for recalling of the order dated 05.02.2014, which was also dismissed.

Although the conduct of the defendants is deplorable, however, in the interest of justice, defendants-petitioners are granted one opportunity to cross-examine the plaintiff at place of his residence i.e. Village Naini (Ranikhet), District Almora, Uttarakhand, through Local Commissioner subject to the payment of cost of ₹1,00,000/- to be defrayed towards the fee of Local Commissioner to be appointed, his transportation and balance amount be paid to the plaintiff.

Since suit is pending for the last 9 years, therefore, the trial Court would appoint the Local Commissioner and direct him to visit the place of residence of the plaintiff within 1 month from today and the trial of the case shall be concluded within a period of 2 months thereafter.

If the defendant No.1 makes any attempt to further delay the trial, the Court would be at liberty to proceed with the trial in accordance with the law.

In view of the aforesaid observations, the present revision petition is disposed of.

All pending miscellaneous applications are disposed of, in view of the abovesaid order.

23.08.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No