

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

CR No.1324 of 2017.

Date of Decision: 27.02.2017.

Shashank Aggarwal

....Petitioner.

VERSUS

Smt. Babli and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Harkesh Manuja, Advocate for the petitioner.

SNEH PRASHAR, J.

The instant revision petition under Article 227 of the Constitution of India is directed against the order dated 20.01.2017 passed by learned Civil Judge (Junior Division), Panipat by virtue of which the evidence of the plaintiff-petitioner was closed by order.

The submissions made by Mr. Harkesh Manuja, learned counsel representing the petitioner have been considered.

From the impugned order, it is apparent that examination in chief in the form of affidavit of PW1 Shashank Aggarwal (plaintiff-petitioner) was filed on 19.08.2014. On the said date, his cross-examination was deferred on the request of counsel for the respondents-defendants. Thereafter, he appeared on 06.02.2015, 17.04.2015 and 04.05.2015 and on each date he was partly cross examined by counsel for the respondents-

defendants and the remaining cross-examination was deferred either on request of counsel for the respondents-defendants or because the Court time was over. Learned counsel for the petitioner submits that after adducing other required evidence counsel for the petitioner inadvertently closed his evidence and forget that cross-examination of PW1-petitioner had not been completed. Submitting that it was necessary to get completed the cross-examination of PW1-petitioner so that his statement can be read in evidence, learned counsel prayed that one opportunity be allowed for that purpose.

As indicated above, the petitioner, who stepped into witness box as PW1, appeared four times in the Court to allow the other party to cross examine him. There was no default on his part, rather, the cross-examination was not completed either because counsel for the respondents-defendants requested to defer the same or because the Court time was over. Needless to say that unless the cross-examination is completed by the opposite party, statement of petitioner-PW1 will not be read in evidence and that undoubtedly will cause a serious prejudice to his case. It appears to be an inadvertent omission on his/ his counsel's part that the evidence was closed without letting the opposite party complete his cross-examination. It could neither be intentional nor deliberate.

To avoid further delay in the matter, in my considered opinion, notice to the respondents-defendants, is not required to be issued. In the interest of justice, the petitioner is allowed one opportunity to appear in the witness box for completion of his cross-examination by the opposite party. Learned trial Court will fix a date and the petitioner will appear on that date for his remaining cross-examination, subject to costs of Rs.2000/-, which

shall be deposited by the petitioner with the Legal Aid Authority. In case the petitioner does not appear on the date fixed, no further opportunity shall be accorded. In the said terms, the petition is allowed.

27.02.2017.
jitender sharma

(SNEH PRASHAR)
JUDGE

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

Whether Reportable : **Yes/ No**