

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

CR No.1593 of 2017.

Date of Decision: 06.03.2017.

Raj Kumar

....Petitioner.

VERSUS

Mangat Ram

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Ankit Chowdhri, Advocate for the petitioner.

SNEH PRASHAR, J.

The petitioner is aggrieved by the order dated 09.02.2017 passed by learned Additional Civil Judge (Senior Division), Chandigarh, by virtue of which his evidence was closed by order.

Perusal of the zimni orders passed by learned trial Court, reproduced by the petitioner in the instant petition, indicate that the first date for evidence of the petitioner fixed by learned trial Court was 08.07.2016. Despite having availed four opportunities, the petitioner produced no evidence and his evidence was closed by learned trial Court vide order dated 07.10.2016. On the same day, the file was again taken up and the order closing the evidence of the petitioner was recalled and further opportunity was given to him for his evidence. On the next date i.e. 13.10.2016, examination in chief of the petitioner (DW1) was recorded and cross-examination was deferred on request of counsel for the respondent-

13.12.2016 but for the reasons not properly explained in the orders, the cross-examination was not completed. Thereafter, vide order dated 24.01.2017 on request of counsel for the petitioner adjournment was allowed subject to payment of Rs.2000/- as costs and on the next date of hearing i.e. 09.02.2016 the evidence of the petitioner was closed.

All adjournments sought for evidence of the petitioner cannot be attributed to him. The examination in chief of the petitioner stands recorded. In case the opposite party is not allowed to cross-examine him, his statement would not be read in evidence and that will indeed cause serious prejudice to his rights.

To avoid unnecessary delay in the matter, in my considered opinion, notice to the respondent-plaintiff, 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 cross-examination which will be completed on the same day. The opportunity is allowed subject to costs of Rs.3000/-, 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.

(SNEH PRASHAR)
JUDGE

06.03.2017.
jitender sharma

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

Whether Reportable : **Yes/ No**