

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

**C.R. No.2278 of 2017
Date of Decision:-29.03.2017**

M/s Devinder Kumar Kewal Kumar and another

...Petitioners

Versus

Ashok Kumar

...Respondent

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Vishal Aggarwal, Advocate
for the petitioners.

HARI PAL VERMA J.(Oral)

The petitioner, who is a tenant in the shop in question, situated in Talab Bazar, Ludhiana, has filed the present revision petition impugning the order dated 2.3.2017 passed by learned Civil Judge (Junior Division), Ludhiana, whereby the evidence of the petitioner-tenant was closed. The order dated 2.3.2017 passed by the Civil Judge (Jr. Divn.), Ludhiana read as under :-

“Today the case was fixed for cross-examination of RW-2 and RW-3 subject to last opportunity but no RW is present and respondent has moved an application for adjournment as his counsel is not available. Perusal of file shows that three last opportunities including one

with cost has been given to respondent but he has failed to conclude his evidence. As such respondent evidence is closed by order. Now case is adjourned to 16.03.2017 for rebuttal evidence if any or in the alternative for arguments.”

Learned counsel for the petitioner has argued that on 2.3.2017 the case was fixed for cross-examination of RW2 and RW3, though it was the last opportunity. The witnesses namely RW2 and RW3 have already submitted their respective affidavits in the nature of their examination-in-chief and were required to be cross-examined on that date i.e. 2.3.2017. However, the conducting counsel of the petitioner was not available on that day and for this reason these witnesses could not be cross-examined. He states that the witnesses are ready to appear before the trial Court to get themselves cross-examined on any date convenient to the Court as well as the conducting advocate of the respondent-landlord. It will not cause any prejudice to the respondent in any manner.

I have heard learned counsel for the petitioner.

Without expressing any opinion on the merits of the case, but considering the fact that RW2 and RW3 have already submitted their affidavits in the nature of their examination-in-chief and are required to be cross-examined, one more effective opportunity is granted to them to get themselves cross-examined. It is made clear that these witnesses would be afforded only one effective opportunity to get themselves cross-examined and they will not seek any adjournment for their cross-examination unless the Court adjourn the case at its own. However, this opportunity would be

subject to payment of Rs.10,000/- as costs to be paid to the respondent-landlord.

The present revision petition is disposed of at this stage and in the case notice is not being issued to the respondent for the reason that it will further prolong the litigation. The trial Court shall make an endeavor to expedite the trial.

March 29, 2017
Vijay Asija

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No