

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

**CR No. 3012 of 2014 (O&M)
Date of Decision: 04.12.2017**

RUPINDER SINGH

...Petitioner

Versus

SMT. SATISHA SHARMA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Harminder Singh, Advocate for
Mr. B.B. S. Sobti, Advocate
for the petitioner.

Mr. Akshay Bhan, Sr. Advocate with
Mr. Santosh Sharma, Advocate &
Mr. Namit Gautam, Advocate for the respondents.

RAJ MOHAN SINGH, J. (ORAL

Petitioner has preferred this revision petition against the order dated 18.02.2014(Annexure P-1), passed by Civil Judge, Junior Division, Ludhiana in Civil Suit No. 974 of 1996, vide which the evidence of plaintiff was ordered to be closed without cross examininig PW-2 Malkiat Singh by the defendants,

[2]. While issuing notice of motion on 01.05.2014, following order was passed:-

“Points out to the application (Annexure P4) in which the twin prayers were made that either PW2 Malkiat Singh be recalled for cross examination by the defendant or in the alternative the cross examination of PW2 be treated as nil in terms of the order of the trial Court dated 17.01.2007 in which it

was ordered while giving last opportunity for conducting the cross examination of PW2 failing which the defendant will forfeit his right of cross examination of PW2 and opportunity given will be treated as "Nil". This order was passed on 17.01.2007. It is apparent on reading of this zimni order that it was the defendants who were prolonging the cross examination of Malkiat Singh. In the face of this order which Mr. Sobti submits that it was not varied, changed or reviewed by a superior Court till such time as the plaintiff himself filed an application (Annexure P4) making the twin prayers. The result of this application was that PW2 Malkiat Singh was recalled for facing cross examination but the bailable warrants have met with no success in securing the attendance of the witness. Since an alternative prayer was made in the application for treating the cross examination of PW2 as nil then the respondents would have a right to be heard by this Court before making final orders.

Notice of motion returnable on 15.07.2014.

In addition to the usual mode of service, the petitioner is granted liberty to serve the respondents through counsel in the trial Court in terms of Order 3 Rule 3 (1) CPC as amended by this Court on its rule making side”.

[3]. Thereafter, learned counsel for the petitioner made a statement that he would make an effort to produce PW-2 Malkiat Singh before the Court in terms of order dated 14.01.2013(Annexure P-6), so that he can be subjected to cross examination by the defence. In the eventuality, he is not able to produce the said witness, he shall move an appropriate application for taking coercive steps before the trial Court to produce him.

[4]. Today, learned counsel for the petitioner submitted that the needful has been done in the context of cross examining PW-2 Malkiat Singh and therefore, his statement has to be read in evidence.

[5]. In view of above, learned counsel for the petitioner prayed that this petition be disposed of as such.

[6]. Since both the parties have already led evidence, therefore, the trial Court shall make every endeavour to decide the suit preferably within a period of 9 months.

[7]. Disposed of.

December 04, 2017
Jyoti-IV

(RAJ MOHAN SINGH)
JUDGE

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