

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

CR-3157-2017

Date of decision:3.5.2017

Gurnam Kaur

...Petitioner

Versus

Harnam Kaur and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mrs.RK Manaise, Advocate for the petitioner

SNEH PRASHAR, J.

Challenge in this petition is to the order dated 9.3.2017 passed by learned Additional Civil Judge (Senior Division), Naraingarh vide which the evidence of the petitioner was closed by order.

The submissions made by Mrs.RK Manaise, Advocate representing the petitioner have been considered.

Learned counsel for the petitioner submits that two witnesses of the petitioner had stepped into the witness box and their examination-in-chief had been recorded. Somehow for one reason or the other the cross examination of the witnesses could not be conducted by counsel for the respondents-defendants. On the date fixed i.e. 9.3.2017 the witnesses, who were to be cross-examined were not present and the

request of counsel for the petitioner for adjournment was declined by learned trial Court. The evidence of the petitioner was closed by order but the case was adjourned to 7.4.2017 for recording cross-examination of the witnesses already examined as PW1 and PW2. On the date fixed i.e. 7.4.2017, the case was adjourned to 4.5.2017. Learned counsel asserts that apart from cross-examination of the witnesses of the petitioner, the petitioner herself has also not appeared in the witness box so far. In case she is not given a chance to appear as her own witness and reiterate her claim on oath, she will suffer an irreparable loss. To save her from the same, she be given one opportunity to examine herself.

Perusal of the impugned order shows that as many as eight opportunities were availed by the petitioner before her evidence was closed by order. There was indeed no justification for such huge number of opportunities given to the petitioner for her evidence. However, the fact is that though learned trial Court closed the evidence of the petitioner by order but adjourned the case for cross-examination of the witnesses examined by the petitioner. The case was adjourned to 7.4.2017 and as submitted by counsel for the petitioner, it has further been adjourned to 4.5.2017.

To avoid unnecessary delay in the proceedings, in my considered opinion, no notice is required to be given to the respondents. Considering the aforesaid facts, especially the fact that the case is now fixed for recording of cross-examination of the witnesses of the

petitioner, there appears no reason why the petitioner be not allowed to appear in the witness box. Needless to say that her absence in evidence will certainly prejudice her claim. The evidence recorded in due process of law will also help the trial Court to better appreciate the issues involved and render substantial justice to the parties.

In the above premise, the petition is allowed and the impugned order closing evidence of the petitioner is set aside. Since, the case before the trial Court is fixed for 4.5.2017 for recording cross-examination of the PW1 and PW2, the petitioner will also appear on that date for recording of her statement subject to her depositing Rs.3000/- as cost with the District legal Services Authority, Ambala. However, it is made clear that if the petitioner – plaintiff fails to appear on the date fixed i.e. 4.5.2017, no further date shall be granted to her.

3.5.2017
gsv

(SNEH PRASHAR)
JUDGE

Whether speaking / reasoned?
Whether reportable?

Yes / No
Yes / No