

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

CR-3274-2017

Date of decision:8.5.2017

Bikramjit Singh

...Petitioner

Versus

Jaspreet Kaur

...Respondent

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.APS Sandhu, Advocate for the petitioner

SNEH PRASHAR, J.

Challenge in this petition is to the order dated 3.2.2017 passed by learned trial Court dismissing the application for recalling the order dated 18.11.2016 vide which the evidence of the petitioner was closed by order.

The submissions made by Mr.APS Sandhu, Advocate representing the petitioner have been considered.

The petitioner is stated to be Government employee with the Excise Department. Learned counsel for the petitioner submits that due to election duty in the State of Punjab, the petitioner was not granted leave for attending the court proceedings and for the said reason, he could not appear in the Court on the date fixed i.e. 18.11.2016 for his cross-examination. The request for adjournment made by counsel for the petitioner was declined by learned trial Court and the evidence of the petitioner was closed by order. Learned counsel contends that in case the

petitioner is not given a chance to appear as his own witness and reiterate his claim on oath, he will suffer an irreparable loss. The effect of his non-cross-examination will be that his examination -in -chief will also not be read in evidence. Therefore, he be given just one opportunity to appear for his cross-examination.

Perusal of the impugned order shows that numerous opportunities including last opportunity were availed by the petitioner before his evidence was closed by order. However, the fact is that though the petitioner failed to appear for his cross-examination on 18.11.2016, but it is mentioned in the impugned order of learned trial Court that the costs of Rs.300/- imposed upon the petitioner was deposited in compliance of the previous order of the Court.

To avoid unnecessary delay in the proceedings, in my considered opinion, no notice is required to be given to the respondents. The reason stated by the petitioner for his non-appearance on the date fixed appears to be genuine and it can be said that his absence on 18.11.2016 was not intentional. Needless to say in case the testimony of the petitioner is left on record un-cross-examined, his examination- in-chief will also not be read in evidence, which will cause serious prejudice to his case. Needless to say that the evidence recorded in due process of law will 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 order

dated 3.2.2017 as well as 18.11.2016 are set aside and the petitioner is directed to appear for his cross-examination on the date to be fixed by learned trial Court. The same shall be subject to his depositing Rs.5000/- as cost with the District legal Services Authority, Hoshiarpur. However, it is made clear that if the petitioner – plaintiff fails to appear on the date fixed by learned trial court, no further opportunity shall be granted to him.

8.5.2017
gsv

(SNEH PRASHAR)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No