

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

CR-3438-2017

Date of decision: 19.5.2017

House Fed Kahnuwan Road near Dr.Oberai Hospital Gurdaspur through
Secretary Sarabjit Singh

...Petitioner

Versus

Jasbir Kaur and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.NK Vadehra, Advocate for the petitioner

SNEH PRASHAR, J.

The petitioner is aggrieved by the order dated 3.3.2017 passed by learned Civil Judge (Junior Division), Gurdaspur vide which the evidence of the petitioner -defendant was closed by order.

The submissions made by Mr.NK Vadehra, Advocate representing the petitioner have been considered.

Respondents No.1 to 3 (plaintiffs) filed a suit for permanent injunction seeking to restrain the petitioner (defendant No.1) and respondent No.4 (defendant no.2) from recovering any amount forcibly. Petitioner filed his written statement contesting the suit. Learned counsel for the petitioner submits that on 23.9.2016, DW1 Sarabjit Singh filed an affidavit in his examination-in-chief but his cross-examination was deferred on request of counsel for the plaintiff. On 3.3.2017 DW1 Sarabjit Singh was present in Court complex but could not appear before

the trial Court for his cross-examination due to strike by lawyers of the District Bar Association, Gurdaspur and learned trial Court ignoring the said fact, closed the evidence of the defendants by order. The case was adjourned time and again on one pretext or the other and due to that cross-examination of DW1 Sarabjit Singh could not be recorded. Submitting that in case the testimony of the witness is left un-cross-examined on record, the defence of the petitioner will be seriously prejudiced, learned counsel prayed that only one opportunity for cross-examination of DW1 Sarabjit Singh be given.

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. Needless to say that in case the testimony of the witness of the petitioner is left on record un-cross-examined, his examination- in-chief will also not be read in evidence and that will cause serious prejudice to the case of the petitioner. Rather, 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 3.3.2017 is set aside and the petitioner is directed to produce DW1 Sarabjit Singh for his cross-examination by the plaintiffs on the date to be fixed by learned trial Court. The opportunity given shall be subject to depositing Rs.5000/- as cost with the District legal Services Authority,

19.5.2017
gsv

(SNEH PRASHAR)
JUDGE

Yes / No

Yes / No