

CR No. 4064 of 2017

DECIDED ON: JUNE 02, 2017

VEERPAL KAUR TH POA SAWARN SINGH

.....PETITIONER

VERSUS

BHOLA SINGH AND ORS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. PKS Phoolka, Advocate
for the petitioner.

JASPAL SINGH, J (ORAL)

By virtue of instant petition preferred under Article 227 of the Constitution of India, petitioner has sought the quashing of setting aside of order dated April 19, 2017 passed by learned Additional Civil Judge (Sr. Division), Bathinda, in case file No. 17, dated February 18, 2014 titled as **Veer Pal Kaur vs. Bhola Singh & others;** whereby, the evidence of the petitioner/plaintiff has been closed by the orders of Court on April 19, 2017.

The contention of learned counsel for the petitioner is that the petitioner has already concluded his evidence except Swaran Singh-PW-4. He tendered his affidavit as examination-in-chief on February 27, 2017. However, his cross-examination was deferred. But subsequent, thereto, the evidence of the petitioner/plaintiff has been closed by the orders of the Court on April 19, 2014. As many as nine witnesses have already been examined by the petitioner in support of his case. Swaran Singh-PW-4 is stated to be one of the attesting witnesses of agreement dated January 23, 2014. In addition to it he is also GPA holder of the petitioner/plaintiff. The examination of PW-4 Swaran Singh is

necessary for the proper and effective adjudication of the matter in controversy. Otherwise, in the absence of cross-examination of PW-4 his testimony could not be read in evidence, which would be fatal and prejudicial to the case of the petitioner/plaintiff.

This Court has given an anxious thought to the afore-said submission made by learned counsel for the petitioner.

It is well settled proposition of law that parties should be afforded ample opportunities to adduce their evidence in support of their case, so that their right should not be scuttled away on the basis of some lapse or omission. In the instant case Swaran Singh has already been examined as PW-4 on 27.02.2017 but his cross-examination was deferred, which would certainly throw material light upon the controversy involved in the case.

In view of above, this Court is of the considered view that an opportunity should be afforded to the petitioner/plaintiff to produce Swaran Singh-PW-4 for the purpose of his cross-examination by the opposite party. Thus, without expressing any opinion with regard to the legality of the impugned order, instant petition is disposed of with a direction to learned trial Court to afford an effective opportunity to the petitioner/plaintiff to examine PW-4 and then to proceed with the suit for its disposal in accordance with law.

JUNE 02, 2017
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(JASPAL SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>