

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

CR No. 4435 of 2017

Date of Decision: 11.07.2017

KULWANT SINGH AND OTHERS

-PETITIONERS

VS

TEK SINGH

-RESPONDENT

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. A.K. Khunger, Advocate,
for the petitioners.

RAJ MOHAN SINGH, J. (ORAL)

Application for re-calling of witness for remaining cross-examination was allowed by the trial Court on 31.05.2017.

Learned counsel for the petitioners submitted that on 29.01.2016, cross-examination of plaintiff witness namely Tek Singh was deferred as the Court time was over on that date. Thereafter, the said witness did not turn up and the plaintiff proceeded to conclude his evidence on 29.08.2016. The evidence of the defendants started thereafter. The application was filed for cross-examination of plaintiff witness at a very belated stage.

According to learned counsel for the petitioners, filing of the application at such a stage was only to fill in the lacuna in the evidence of the plaintiff.

Trial Court has granted indulgence subject to payment of costs of Rs.500/- that too to be deposited by the plaintiff under Free Legal Aid Fund.

Learned counsel contends that adequate costs should have been imposed upon the plaintiff and the same should have been paid to the defendants.

After hearing learned counsel for the petitioners, I am of the view that indulgence has been granted by the trial Court on equitable ground. There is no necessity to interfere in the impugned order, however, I am of the view that the trial Court should have imposed adequate costs on the plaintiff for the delay in filing the application.

Plaintiff shall deposit an amount of Rs.15,000/- as costs in the trial Court. The said costs should be paid to the defendants thereafter.

Payment of costs shall be the condition precedent for granting indulgence by the trial Court in the aforesaid context.

Disposed of.

11.07.2017
jyoti Y.

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No