

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CR No.5183 of 2016
Date of Decision:8.9.2017**

Avneet Kaur Sidhu and others

...Petitioners

Versus

Gurdial Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.Kashmir Singh, Advocate for the petitioners.
Mr.Raj Kumar, Advocate for
Mr.P.S.Dhaliwal, Advocate for respondent No.1.

RAMESHWAR SINGH MALIK, J. (Oral)

Instant civil revision petition, filed under Article 227 of the Constitution of India, at the hands of defendants, is directed against the order dated 14.7.2016 passed by the learned trial court, whereby application moved by defendants No.1 to 3, for recalling DW-3-Jagdev Ram for his cross-examination, was declined by the learned trial court.

Notice of motion was issued and pronouncement of final judgment was stayed.

Heard learned counsel for the parties.

Learned counsel for the petitioners submits that although the petitioners ought to have been more careful and vigilant to cross-examine DW-3 on the date he was examined in the court, yet in order to avoid miscarriage of justice, defendants-petitioners deserve one more opportunity

to cross-examine DW-3, subject to payment of reasonable amount of costs to the plaintiff-respondent.

Per contra, learned counsel for the respondents submits that since the stand taken by the defendants-petitioners in their application moved before the learned trial court was contrary to the record, said application was rightly dismissed by the learned trial court, while passing the impugned order and the same deserves to be upheld.

After hearing the learned counsel for the parties and going through the record of the case, this Court is of the considered opinion that in order to avoid miscarriage of justice, petitioners deserve to be granted one more opportunity to recall and cross-examine DW-3-Jagdev Ram, subject to payment of reasonable amount of costs to the plaintiff-respondent. It is so said because the plaintiff is not going to suffer any kind of prejudice by granting one more opportunity to the defendants-petitioners to cross-examine DW-3 and such an opportunity shall also not cause any delay in deciding the suit.

On the other hand, cross-examination of DW-3, at the hands of defendants-petitioners, will facilitate the learned trial court to arrive at a judicious conclusion so as to do substantial justice between the parties. It is the settled principle of law that rules of procedure are meant for advancing the cause of justice. Every court of law must make an endeavour to grant reasonable opportunities to both the parties to put up their best case before the court. Since the learned trial court could not appreciate this material

aspect of the matter, while passing the impugned order, a manifest injustice has been caused to the petitioners-defendants.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that petitioners deserve one more opportunity. Accordingly, the impugned order dated 14.7.2016 passed by the learned trial court is hereby set aside.

Application moved by the petitioners-defendants for recalling DW-3-Jagdev Ram for his cross-examination would stand allowed. The learned trial court is directed to grant one more opportunity to the petitioners-defendants to cross-examine DW-3-Jagdev Ram, however, subject to payment of Rs.5,000/- as costs, which shall be paid by the defendants-petitioners to the plaintiff-respondent on or before the next date of hearing fixed before the learned trial court.

Resultantly, with the above-said observations made and directions issued, the present civil revision petition stands allowed, however, with no order as to costs.

8.9.2017
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No