

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

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CR 4838 of 2017 (O&M)

Date of decision: 26.07.2017

Rajbir Singh

..... *Petitioner*

Versus

Rakesh Bhatla

.....*Respondent*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Viney Saini, Advocate
for the petitioner

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Rekha Mittal, J. (Oral)

Counsel for the petitioner would submit that the petitioner was examined and cross examined but one of the witnesses namely Baldev Singh was examined on 09.02.2017, his cross examination was deferred at the request of counsel for the respondent/defendant and thereafter he could not cause appearance before the Court for his cross examination due to his ill health. It is further argued that a serious prejudice is likely to be caused to the petitioner in case he is not permitted to produce said Baldev Singh in the witness box for his cross examination because in absence of cross examination, his testimony cannot be taken into consideration. It is prayed that the petitioner may be allowed one opportunity to produce Baldev Singh for his cross examination.

I have heard counsel for the petitioner, perused the paper book and various zimini orders, copies whereof were made available during the course of hearing.

Perusal of the zimini orders would reveal that the case was adjourned on a number of occasions for evidence of the petitioner. The petitioner was examined and cross examined, Baldev Singh PW2 caused

appearance before the Court on 09.02.2017 and his examination-in-chief by way of affidavit was recorded. The case remained pending on 10.03.2017, 06.04.2017, 28.04.2017 and 25.05.2017 for evidence of the petitioner. In none of the zimini orders recorded by the Court, there is reference to any specific request with regard to inability of said Baldev Singh to appear in the witness box. Vide order dated 28.04.2017, the petitioner was provided with last opportunity for his evidence. Even before this Court, the petitioner has not placed on record any tangible material to justify failure of said Baldev Singh to appear in the witness box for his cross examination. Not only this, after evidence of the petitioner was closed by order, the respondent examined one witness and closed his case and the case is pending for rebuttable evidence, if any, and arguments.

No doubt, one of the principles of natural justice commands that a party must get effective opportunity to adduce evidence but in the instant case, the petitioner has been provided with several opportunities to conclude his evidence and the Court showed magnanimity and leniency in repeatedly adjourning the case even without any explanation for failure of the petitioner to produce the remaining evidence.

In view of the above, I do not find it to be a fit case where interference in exercise of revisional jurisdiction of this Court is warranted.

Dismissed.

(Rekha Mittal)
Judge

26.07.2017
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No