

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

CR No.5554 of 2017

Date of decision: 21.08.2017

Gurmail Singh

...Petitioner

Versus

Baljinder Singh and another

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.S. Rana, Advocate,
for the petitioner.

Ritu Bahri, J.

Defendant No.1-petitioner is seeking modification of the order dated 18.07.2017 passed by the Civil Judge (Junior Division), Kharar, to the extent of allowing him to file written statement and cross-examine the witnesses of the plaintiff-respondent No.1.

Learned counsel for the petitioner has referred to the judgment passed by this Court in **Jamshed Ali Khan & Ors. Vs. Udhya Bir & Ors.,** 2014 (2) Civil Court Cases 472 (P&H), to contend that once the exparte decree had been set aside, he (defendant) should have been granted time to file the written statement.

The present petitioner is the only contesting defendant in the suit. Case of the plaintiff was that he had executed General Power of Attorney dated 03.08.2010 in favour of defendant No.1, which was later on cancelled by him on 30.11.2010. However, defendant No.1 executed sale deed dated

18.01.2011 in favour of defendant No.2.

The question of consideration would be, 'whether at the time of executing the sale deed dated 18.01.2011, defendant No.1 had the knowledge with regard to cancellation of the General Power of Attorney on 30.11.2010'. As this would be an important issue to be decided by the trial Court, defendant No.1 should have been granted an opportunity to file the written statement.

In these circumstances, one effective opportunity is granted to defendant No.1-petitioner to file his written statement within a period of 30 days and thereafter, the trial Court shall proceed in accordance with law. Defendant No.1-petitioner shall be granted an opportunity to cross-examine any of the witnesses of plaintiff-respondent No.1 and the trial Court may impose appropriate costs for recalling of the said witness(s).

Allowed accordingly.

21.08.2017
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No