

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

--

Civil Revision No. 6285 of 2017

Date of decision: 18.09.2017

Gurwinder Pal Singh and another

..... Petitioners

Versus

Suraj Prakash and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Naveen Sharma, Advocate
for the petitioners

-.-

Rekha Mittal, J. (Oral)

The petitioners have approached this Court with a prayer for one opportunity to allow Gurwinder Pal Singh - petitioner No. 1 to tender himself in the witness box for the purpose of cross examination.

Counsel for the petitioners has submitted that Gurwinder Pal Singh - petitioner No. 1 appeared in the witness box on 01.08.2017, tendered into evidence his duly sworn affidavit and the case was adjourned to 17.08.2017 for his cross examination. It is further submitted that though petitioner No. 1 was present in the Court on 17.08.2017 for his cross examination but since his counsel was not available on that day and he could not convey to the Court with regard to his presence, evidence has been closed by order. It is further submitted that a serious prejudice would be caused to the petitioners in case cross examination of Gurwinder Pal Singh - plaintiff is not conducted by the contesting party.

The contention raised by Counsel with regard to examination-

in-chief of Gurwinder Pal Singh on 01.08.2017 is borne out from the zimini order, reproduced in the grounds of revision. Counsel would inform that after evidence of the petitioner was closed by order on 17.08.2017, the respondents did not adduce any evidence and the case is fixed on 28.09.2017 for arguments.

Keeping in view the principle of natural justice coupled with that technicalities should not stand in the way of substantial justice, the petitioners are allowed one opportunity for appearance of Gurwinder Pal Singh-petitioner No. 1 in the witness box for his cross examination on 28.09.2017, subject to the following conditions:-

- i) Gurwinder Pal Singh-petitioner No. 1 shall ensure his presence before the Court on the date fixed, for his cross examination;
- ii) The petitioners shall prepare a demand draft of Rs.5,000.00 towards costs payable to the respondents; and

Failure of the petitioners to comply with any of the conditions would entail dismissal of the petition.

Before parting with the order, it is clarified that the instant petition has been disposed of without notice to the respondents in order to avoid inconvenience and incurring expenditure by them. However, if the respondents have any grievance to express, they shall be at liberty to file an appropriate application before this Court.

(Rekha Mittal)
Judge

18.09.2017
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No