

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

CR No. 6328 of 2017

Date of Decision: 18.09.2017

GANGA SINGH ALIAS GANGA RAM

-PETITIONER

VS

M/S JAGDISH RAI SURESH KUMAR REGD. PARTNERSHIP
FIRM

-RESPONDENT

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Raj Kapoor Malik, Advocate,
for the petitioner.

RAJ MOHAN SINGH, J. (ORAL)

Petitioner has assailed the order dated 18.08.2017 passed by Civil Judge (Junior Division), Kaithal vide which opportunity to cross-examine plaintiff witnesses PW1 and PW3 by the defendant was treated to be nil.

A civil suit for recovery was filed by the plaintiff against the defendant-petitioner along with interest. The petitioner has denied the very taking of loan in his written statement and the entries in the Rokar Bahi were also claimed to be wrong. Though the defendant-petitioner has admitted that he had sold his agriculture produce to the plaintiff but the factum of taking money was denied.

Issues were framed on 26.02.2016.

Plaintiff evidence started w.e.f. 11.04.2016. No PW was present on 11.04.2016. The case was adjourned to 31.05.2016 with last opportunity. No PW was present on 31.05.2016, 19.08.2016 and 13.09.2016. The recital of last opportunity was recorded in all the aforesaid orders.

On 07.10.2016, affidavit of Jagdish Rai Ex.PW1/A was tendered. Ramesh Chand was examined as PW2. The case was adjourned for cross-examination of PW1 for 08.12.2016 with an endorsement of last opportunity. On 08.12.2016, no PW came to attend the Court and the endorsement of last opportunity was made to continue even for the adjourned date i.e. 27.01.2017, when no PW turned up. Ultimately the case was adjourned for 21.02.2017 for filing reply to the application for examining the expert witness. On 21.02.2017, the case was adjourned for 15.04.2017 and then to 22.05.2017. Since, reply was not filed, the application was allowed on 31.05.2017 and the specimen signatures were given in pursuance thereof on 04.07.2017. Ultimately, the case was adjourned for 21.07.2017 for PWs. No PW was present on 03.08.2017 and 18.08.2017. Cross-examination of PW1 was shown to be completed on 18.08.2017. Infact, no cross-examination of PW1 was completed on 18.08.2017 and the case was adjourned to 22.08.2017. The cross-examination at

the instance of the defendant was closed on the same date.

Perusal of the aforesaid interlocutory orders on record shows that the case was never fixed for cross-examination of the witnesses, rather the same was fixed for plaintiff evidence on number of dates on which no plaintiff witness turned up. Even Jagdish Rai- PW1 did not turn up on the aforesaid dates and never submitted himself for cross-examination by the defendant.

In view of nature of order which this Court proposes to pass at this stage after perusing the various interlocutory orders on record, I deem it appropriate not to issue any notice to the respondent as it would further delay the disposal of the case.

In view of aforesaid, I grant one opportunity to the petitioner to cross-examine PW1 and PW3 on a date to be fixed by the trial Court. Let the follow up action be taken up by the trial Court.

Disposed of.

18.09.2017
jyoti

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No