

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

Sr. No.117

Civil Revision No. 671 of 2017

DECIDED ON: February 01, 2017

Anil Goyal

..PETITIONER

VERSUS

Dr. V.K. Gupta and others

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Rakesh Gupta, Advocate, for the petitioner.

JASPAL SINGH, J. (ORAL)

By virtue of the instant petition preferred under Articles 226/227 of the Constitution of India, petitioner has sought the setting aside of order dated January 10, 2017 (Annexure P-1) passed by Civil Judge (Junior Division), Patiala vide which an application filed by the petitioner under Order 18 Rule 17 read with Section 151 of Code of Civil Procedure for recalling of Dr. V.K. Gupta for further cross-examination has been declined/dismissed.

2. A perusal of the impugned order dated January 10, 2017 reveals that application has been declined simply on the ground that Dr. V.K. Gupta has been cross-examined at length by petitioner-defendant No.3 and the question regarding legal notice as well as blank papers have been put to the said witness during cross-examination conducted on February 20, 2016 and further, that application appears to have been filed just to delay the proceedings of the case, but these observations of the learned trial court appear to be unjustified.

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3. No doubt, certain questions have been put to the said witness with regard to legal notice but the document itself could not be put to the witness during his cross-examination and the cross-examination of the witness. On that point, especially with regard to notice is likely to cause prejudice to the petitioner-defendant No.3. Moreover, recall of the witness will not cause any prejudice to the petitioner-defendant No.3. The recalling of the witness for the purpose of cross-examination is essential for the just, effective and judicious adjudication of the matter in controversy between the parties. Accordingly, petitioner-defendant No.3 deserves to be afforded an opportunity in this respect.

4. Accordingly, instant petition is allowed and impugned order dated January 10, 2017 is set aside. Consequently, application under Order 18 Rule 17 read with Section 151 CPC stands allowed. The trial court is directed to afford an effective opportunity to the petitioner-defendant No.3 to further cross-examination of Dr. V.K. Gupta but only with respect to notices dated June 17, 2006 & June 20, 2006, which are alleged to have been served upon the plaintiff. Further, if the contesting respondent(s) feel aggrieved against this order, he/they shall have the opportunity to approach this Court.

February 01, 2017

Avin/Ankur

**(JASPAL SINGH)
JUDGE**

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No