

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

CR-677-2017

Date of decision: 2.2.2017

Harjit Singh

...Petitioner

Versus

M/s S.K.Ispat and another

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.JS Jaidka, Advocate for the petitioner

SNEH PRASHAR, J.

The present civil revision under Article 227 of the Constitution of India has been filed for setting aside order dated 6.12.2016 whereby learned Civil Judge (Junior Division), Ludhiana dismissed the application of the petitioner for grant of adjournment and the cross-examination of PW1 was treated as 'Nil'.

The submissions made by Mr.JS Jaidka, Advocate representing the petitioner have been considered.

Plaintiff- respondent No.1 filed a suit for recovery of Rs.1,62,000/- against the petitioner- defendant. Issues were framed on the rival pleading of the parties and the plaintiff was called upon to lead evidence in support of his claim.

Learned counsel for the petitioner submits that due to his own marriage, counsel for the petitioner-defendant was not present on the relevant date i.e. the day witness of the plaintiff was examined. An

application for grant of adjournment was filed on his behalf stating the reason of his absence. However, learned trial Court without considering his genuine request, dismissed the application. Submitting that non-cross-examination of PW1, who is an important and material witness, will seriously prejudice the case of the petitioner, learned counsel prayed that just one opportunity be granted to cross-examine him.

Indeed, non cross-examination of the witness by the petitioner will prejudice his defence as it will amount to admission of the facts stated by the witness, even when the petitioner with all vehemence is contesting the suit. The reason intimated to learned trial Court for absence of counsel for the petitioner was very genuine and should have been favourably considered by learned trial Court. Thus, in the interest of justice and to avoid unnecessary delay in the matter by issuing notice etc. to the respondents, in my considered opinion, the petitioner-defendant deserves to be given one last opportunity to cross-examine PW1. It will cause no prejudice to the rights of the respondents-plaintiffs. The evidence recorded in due process of law will also help the trial Court to better appreciate the issues involved and render substantial justice to the parties.

Resultantly, the present revision petition is allowed. The order dated 6.12.2016 is set aside and the learned trial Court is directed to grant one effective opportunity to the petitioner-defendant to cross-examine PW1 subject to deposit of Rs.5000/- as cost with the District

legal Services Authority, Ludhiana.

However, it is made clear that if the petitioner -defendant fail to cross-examine the witness on the date so fixed by learned trial Court, no further opportunity shall be granted to him.

2.2.2017
gsV

(SNEH PRASHAR)
JUDGE

Whether speaking / reasoned?	Yes	/	No
Whether reportable?	Yes	/	No