

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 7745 of 2017

Date of Decision: 09.11.2017

Ex. Major (Dr.) Mahesh Chander Sharma and anotherPetitioners

Versus

Dr. Dinesh Chander SharmaRespondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. A.K.Jain, Advocate
for the petitioners.

ANITA CHAUDHRY, J

This revision is directed against the order dated 27.9.2017 (Annexure P-7) whereby further cross-examination has been denied to the defendants and has been treated as nill.

The petitioners were asked to place on record the zimni orders and those have been made available.

I have heard the counsel for the petitioners.

The zimni orders show that the plaintiff was present on a number of dates and the cross-examination had been effected on two hearings and no cross-examination was effected on 6.7.2017 for which costs were imposed. Counsel for the defendants failed to cross-examine the plaintiff even on 21.7.2017 and ultimately vide the impugned order, the cross-examination was treated as nil.

Counsel for the petitioners submits that the counsel was busy till 4.00 P.M. in another Court and they have placed on record statement of Surinder Singh Saini.

A perusal of the order dated 28.9.2017 shows that the proxy

counsel had appeared for the defendants and had stated at 10.00 A.M. that the counsel Mr. Rajan Malhotra would cross-examine the witness after lunch and after lunch the petitioners have stated that the counsel was busy in cross-examining another witness in another Court.

Notice is not being issued to the respondent as it would further delay the trial.

The counsel should know the number of his cases fixed in the Court on a day and he should not have sought a pass over before lunch session. The plaintiff cannot be asked to come up again and again. But at the same time the party cannot be allowed to suffer for the lawyers absence. Therefore costs will have to be imposed for the delay and the inconvenience caused to the plaintiff.

The petition is allowed on deposit of Rs. 5,000/- which would be paid to the plaintiff. The petitioners are permitted to complete the cross-examination but it would be only on one date. The counsel for the petitioners would be present on the first call and he will cross-examine the plaintiff. The case is stated to be fixed this week. The trial Court would fix a date convenient to it giving time to the plaintiff to appear and ensure that the cross-examination is completed on the date fixed by it. It will be the responsibility of the petitioners to ensure the presence of their counsel on time.

(ANITA CHAUDHRY)
JUDGE

November 09, 2017
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No