

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 7969 of 2017

Date of Decision: 21.12.2017

Baksho

.....Petitioner

Versus

Joginder Pal

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Rahul Bhargava, Advocate
for the petitioner.

ANITA CHAUDHRY, J

This petitioner who is defendant before the Court below is seeking recall of the plaintiff for cross-examination.

The zimni orders have been placed on record along with the statement made by Joginder Pal.

Counsel for the petitioner contends that the case was fixed for plaintiff's evidence in December 2016 and for the first two dates, there was no evidence and on the third date, the plaintiff had appeared and had tendered his affidavit and a request had been made on behalf of the defendant for cross-examination and the case was adjourned to 24.4.2017. It was urged that the plaintiff was present and the counsel for the defendant was not present though his presence is recorded and the cross-examination was treated as nil and they had moved an application for recall of the witness and an opportunity to cross-examine the witness and their application has been dismissed vide order Annexure P-7. It was urged that

routine and they may be given one opportunity to cross-examine the witness.

Notice is not being issued to the respondent as that would further delay the matter. The zimni order dated 24.4.2017 records the presence of the counsel representing the defendant. However, the petitioner states that the counsel was not present and he had asked another counsel to make a request.

The case is not old and the petitioner should be given opportunity to examine/cross-examine the witness. The case is still at the stage of plaintiff's evidence. I feel that it is a fit case where opportunity should be given to the petitioner to cross-examine the plaintiff i.e. Joginder Pal.

The petition is allowed on payment of Rs. 2500/- as costs. This cost will be paid to the plaintiff. The trial Court would fix a date for appearance of the plaintiff. The counsel representing the petitioner would be present on the first call and would not seek adjournment. The trial Court would give only one opportunity to the petitioner for cross-examination.

(ANITA CHAUDHRY)
JUDGE

December 21, 2017
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No