

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

CR No. 989 of 2017

Date of Decision: 02.11.2017

M/S SHALIMAR TOWN PLANNERS PVT LTD

-PETITIONER

VS

RICHPAL SINGH & ORS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Adarsh Jain, Advocate,
for the petitioner.

Mr. Johan Kumar, Advocate,
for respondents No.1 to 6.

RAJ MOHAN SINGH, J. (ORAL)

[1]. Petitioner has assailed the order dated 02.02.2017 passed by the trial Court, closing the evidence of the plaintiff.

[2]. Learned counsel for the petitioner submits that PW2 Jai Shankar was examined in chief on 16.11.2016 and his cross-examination was deferred at the instance of the defendants. PW5 Rajiv Ranjan was also examined in chief on 15.12.2016 and his cross-examination was also deferred. It appears that thereafter, the case was adjourned on number of occasions for the cross-examination of the witnesses.

[3]. On 02.02.2017, the cross-examination of PW2 was in progress. Before lunch, the witness was cross-examined by way

of lengthy cross-examination ranging in more than 08 pages and further cross-examination was deferred for after lunch session. In the after lunch session, it was recorded by the trial Court that the witness was not feeling well and sought adjournment but at the same time, the trial Court proceeded to close the evidence of the plaintiff.

[4]. Learned counsel for the petitioner further submits that both the witnesses were examined in chief on different dates. On 02.02.2017, the cross-examinations of the witnesses were to be recorded. Part cross-examination of PW2 was recorded inasmuch as 08 pages. The factum of ailment of the witness though noticed in the order itself, but while closing the evidence, the Court has not adverted to the fact by dis-believing the alleged ailment of the witness. The cross-examination of PW5 could have been recorded only after cross-examination of PW2. Whether PW5 was present or not at the relevant time could not be noticed in the impugned order.

[5]. Be that as it may, I deem it appropriate to grant one opportunity for cross-examination of PW2 and PW5 by the defendants on a date to be fixed by the trial Court after due notice to the parties. However, this exercise shall be subject to payment of costs of Rs.10,000/- payable to the respondents.

[6]. Payment of costs shall be the condition precedent for

granting indulgence by the trial Court in the aforesaid context.

[7]. Disposed of.

02.11.2017
 jyoti

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No