

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No. 1236 OF 2018(O&M)
Date of decision: 10.09.2018

Swaran Singh

... Petitioner

vs.

Mohinder Kaur and ors.

... Respondents

Coram: Hon'ble Mr. Justice Harinder Singh Sidhu

Present:- Mr. Simranjeet Singh Sarwara, Advocate
for the petitioner.

Mr. Mayank Mathur, Advocate
for respondents No. 1 to 5 and 7.

Harinder Singh Sidhu, J.

The present revision petition has been filed impugning the order dated 06.07.2017 (Annexure P-2) whereby the evidence of the petitioner-plaintiff was closed by Court by order as also the order dated 07.02.2018 (Annexure P-4) whereby his application for getting the cross-examination of PW-2 Swaran Singh (petitioner) recorded was dismissed by learned Civil Judge (Junior Division), Rajpura.

The petitioner filed a suit for declaration to the effect that he is testamentary heir of Surjit Kaur on the basis of a Will dated 27.05.2012. It was his case that Surjit Kaur bequeathed her estate in favour of the petitioner and that he was the owner in possession to the extent of share inherited by Surjit Kaur wife of late Hari Singh from her husband Hari Singh out of the total land as described in the head note of the plaint.

It is the case of the petitioner that after tendering his affidavit on 27.05.2016 he appeared before the trial Court at least on two occasions i.e. on 27.05.2016 and 15.07.2016 but was not cross-examined by learned

counsel for the respondents on those dates. He admits that on a number of occasions, the petitioner did not appear though the counsel for the respondents was available because of which the impugned order dated 6.7.2017 (Annexure P-2) closing his evidence was passed.

Learned counsel for the petitioner submits that though there have been lapses on his part, but one opportunity for getting his cross-examination recorded be provided otherwise he would suffer a grave prejudice.

Learned counsel for respondents No.1 to 5 and 7, on the other hand, contended that the impugned orders have been rightly passed. The petitioner (PW-2) appeared for cross-examination only on two occasions. Thereafter he did not come for his cross-examination though the case was listed a number of times as noticed in the impugned order 07.02.2018 (Annexure P-4). Even the costs imposed upon the petitioner were not deposited by him.

Be that as it may, considering the factual situation and that in case the petitioner is not permitted to get the cross-examination of PW-2 recorded he will suffer serious prejudice. The petition is allowed.

The impugned order dated 06.07.2017 (Anneure P-2) to the extent of closing the evidence of the petitioner and the order dated 07.02.2018(Anneure P-4) declining his application for getting the cross-examination of the petitioner (PW-2) recorded are set aside. The trial Court may grant one effective opportunity to get the cross-examination of PW-2 recorded. The petitioner (PW-2) would appear on the date as directed by the trial Court and be cross-examined by learned counsel for the

respondents. This shall be subject to payment of Rs.20,000/- as costs to the respondents.

10.09.2018
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(Harinder Singh Sidhu)
Judge

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No