

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

116

CR-1272-2018 (O&M)

Date of Decision : 22.02.2018

Paramjit Singh

..... Petitioner

Versus

Gurcharan Singh Saini (deceased) through LRs and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Ankur Bansal, Advocate
for the petitioner.

AJAY TEWARI, J. (Oral)

This petition has been filed against the orders dated 11.01.2018 thereby the cross-examination of witness RW-2 was treated as 'Nil' and the application for recalling that witness was also dismissed.

Apparently the witness RW-2 had appeared for cross-examination on 26.07.2017 but was not cross-examined and his cross-examination was treated as 'Nil'. Subsequently the petitioner filed an application for recalling that witness and to set aside the order of treating the cross-examination of witness RW-2 as 'Nil'. That application was allowed subject to payment of costs of Rs.500/- and the matter was adjourned to 09.11.2017 for the same purpose. However, on that date the cross-examination could not take place because in the meantime the tenant had died. Ultimately, the matter was fixed for 11.01.2018 and on that date again the witness RW-2 was present in Court since 10 A.M. in the morning

and, since the counsel did not appear to cross-examine him his cross-examination was again treated as 'Nil'. At 1.40 PM the counsel appeared but the Rent Controller refused to permit him to cross-examine the witness.

Counsel for the petitioner states that there was a lapse in so much as the counsel appeared late but the fact of the matter is that on that date two witnesses had to be cross-examined i.e. RW-2 and RW-3. RW-3 did not appear and his presence was exempted and in that situation no prejudice would have been caused to the respondents if RW-2 was again called for evidence, may be by imposition of some costs.

I find merit in this argument. Consequently, the orders dated 11.01.2018 are set aside and I direct the Rent Controller to give one more effective opportunity to the petitioner to cross-examine the witness RW-2 subject to payment of costs of Rs.3000/- by way of draft in favour of the witness RW-2.

Petition stands disposed of.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

February 22, 2018
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No