

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

114

CR-1406-2018 (O&M)

Date of Decision:01.03.2018

Dharmender

.....Petitioner

Versus

Aggarsain and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Arvind Rajotia, Advocate,
for the petitioner.

HARI PAL VERMA, J.(Oral)

Petitioner has filed the present revision petition under Article 227 of the Constitution of India for setting aside the impugned order dated 09.02.2018 (Annexure P-1) passed by learned Civil Judge (Jr. Divn.) Hisar, whereby on account of non-cross examination of PW5-Shamsher Singh Malik, his (petitioner's) evidence was recorded as 'Nil' and statement was made by the plaintiff that he has closed his evidence.

Learned counsel for the petitioner has argued that though the petitioner was required to cross-examine PW5-Shamsher Singh Malik but as the availability of the finger print expert could not be ensured and he failed to appear on different dates, therefore, this witness could not be cross-examined. However, the petitioner is ready to compensate the plaintiff in case one opportunity is granted to him to cross-examine this witness i.e. PW5-Shamsher Singh Malik.

I have heard the learned counsel for the petitioner and perused

the impugned order.

Considering the limited prayer of the petitioner and in the light of superintending powers of this Court, as enshrined under Article 227 of the Constitution of India, this Court finds that the petitioner deserves to be afforded one more opportunity, so as to cross-examine PW5-Shamsher Singh Malik. Since issuance of notice would further delay the trial, this Court deems it appropriate to dispense with the service of notice to the respondents. This dispensation will save the respondents from additional litigation expenses in addition to the fact that it would prevent further delay in disposal of the suit. Moreover, while granting additional opportunity to cross-examine the witness, respondent No.1-plaintiff is being compensated.

Accordingly, this Court finds that the petitioner deserves to be afforded one more opportunity to get PW5-Shamsher Singh Malik cross-examined, who otherwise could not be cross-examined because of non-availability of the finger print expert on the dates mentioned in the impugned order. However, this further opportunity would be subject to payment of ₹10,000/- as costs, which shall be paid to respondent No.1-plaintiff before the cross-examination of PW5-Shamsher Singh Malik begins. It is made clear that in case respondent No.1-plaintiff finds that he is still aggrieved with the present order, he would be at liberty to file an application to recall this order.

The revision petition stands disposed of accordingly.

March 01, 2018
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No