

Civil Revision No.1475 of 2018

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

Civil Revision No.1475 of 2018
Date of decision: 06.03.2018

Tarlok Singh and another

.....Petitioners

versus

Sukhdev Singh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. K.S. Kahlon, Advocate, for the petitioners.

RAMENDRA JAIN, J. (ORAL)

Through this revision petition under Article 227 of the Constitution of India read with Section 151 CPC, defendants have assailed the impugned order dated 02.01.2018 (Annexure P-3), dismissing their application for permitting them to examine (i) Draftsman Ashish Kumar; (ii) independent witness Dalip Singh and (iii) record clerk of PSPCL in their defence after closure of their evidence in affirmative.

In nutshell, on 21.03.2017, two witnesses of the petitioners were present for their cross-examination by the respondents-plaintiff, but could not be cross-examined on account of absence of their counsel. Declining the request of the respondents-plaintiff for adjournment, cross-examination of both the witnesses of the petitioners on behalf of the respondents-plaintiff was treated as nil. Consequently, counsel for the petitioners also closed evidence in affirmative on behalf of the petitioners. Thereafter, petitioners moved an application for examination of the aforesaid witnesses, which has been dismissed vide impugned order.

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adjudication of the case. Counsel for the petitioners closed evidence in affirmative on behalf of the petitioners inadvertently for which petitioners may not be made to suffer.

Having given thoughtful consideration to the submissions made by learned counsel for the petitioners, but without commenting on the merits of the case, in the interest of justice, equity, good conscience and fair play, impugned order dated 02.01.2018 (Annexure P-3) is set aside, subject to payment of costs of ₹ 10,000/-, out of which 50% shall be paid to the respondents and remaining shall be deposited with the Punjab State Legal Services Authority. Trial Court is directed to afford one opportunity to the petitioners to examine the aforesaid witnesses namely, Draftsman Ashish Kumar, independent witness Dalip Singh and record clerk of PSPCL at their own responsibility without any assistance of the Court except taking dasti summons of the official witness, if any, and his non-service shall not give any right to the petitioners to seek another adjournment pleading that he could not serve the witnesses as they were official witnesses.

This petition is disposed of without issuing notice to the respondents with a view to impart justice to the parties and to save the huge expenses which may be incurred by the respondents and also to avoid unnecessary delay in the adjudication of the matter. Still, if dissatisfied, the respondents may move this Court for recalling this order within six weeks from today.

March 06, 2018
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No.