

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

CR No. 2414 of 2016 (O&M)
Date of Decision: 05.09.2018

Guru Nanak Dev Public Senior Secondary School, Civil Station, Bathinda
through its President and another

.....Petitioners

Versus

Sharanjit Kaur and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Ashish Grover, Advocate
for the petitioners.

Mr. Deepak Gupta, Advocate
for respondent No.1.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 04.03.2016 passed by the Civil Judge (Junior Division), Bathinda (for short, the Trial Court) through which an application filed by the petitioners seeking to cross-examine respondent No.1, has been dismissed.

The facts in brief which are required to be noticed for adjudicating upon the present petition are that respondent No.1 filed a suit against the petitioners seeking therein recovery of ₹5.00 Lakhs as damages on account of mental agony, mental tension and humiliation allegedly caused to her by the petitioners. Through an ex-parte judgment and decree dated 30.05.2015, respondent No.1's suit was decreed by the Trial Court. The petitioners filed an appeal against the aforesaid judgment and decree, which was allowed by the Appellate Court through its order dated 30.10.2015, as a result of which the matter was remitted to the Trial Court

with a direction to decide the case afresh after giving two effective opportunities to the petitioners to present their defence. Respondent No.1 did not challenge the aforesaid order by the Appellate Court. After remand, for the first time, the matter was listed before the Trial Court on 09.12.2015 and was adjourned to 07.01.2016 on which date the petitioners produced their witness. On the next two dates, the Presiding Officer was on leave and when the matter came up for hearing on the next date, the petitioners moved an application seeking to cross-examine respondent No.1 who had already appeared as her own witness as PW1. Such application was rejected, leading to the filing of the present petition.

Learned counsel for the parties have been heard.

The recovery suit, filed by respondent No.1 in the year 2008, was decreed by the Trial Court through an ex-parte judgment and decree dated 30.05.2015. The petitioners who were the defendants in the suit, filed an appeal against the aforesaid ex-parte judgment and decree which was allowed by the Appellate Court on 30.10.2015 as a result of which the matter was remanded to the Trial Court for a fresh decision on merits after affording two effective opportunities to the petitioners to lead their defence. After remand, the matter was listed before the Trial Court for the first time on 09.12.2015. The Trial Court adjourned the matter to 07.01.2016 to enable the petitioners to lead their evidence on which date, the petitioners examined their sole witness. On the following two dates, the Presiding Officer was on leave. On the next date the petitioners filed an application seeking to cross-examine respondent No.1 who had already appeared as PW1. The application was declined.

Keeping in view the above facts and the remand order of the

Appellate Court granting two “effective” opportunities to the petitioners, the Trial Court should have permitted the petitioners to cross-examine respondent No.1 as without the same no meaningful defence could have been led by the petitioners and their prayer fell within the two “effective” opportunities granted to them by the Appellate Court.

In view of the above, the present petition is allowed. The impugned order is set aside and one opportunity is granted to the petitioners to cross-examine respondent No.1. It is clarified that no further opportunity for the same shall be granted. Since the suit was filed in the year 2008 i.e. about 10 years ago, the Trial Court is directed to dispose of the suit in accordance with law, within one month from the date of receipt of a certified copy of this order.

(DEEPAK SIBAL)
JUDGE

05.09.2018
sandeep

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No