

In the High Court of Punjab and Haryana at Chandigarh

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CR No. 2467 of 2018 (O&M)

Date of decision: 14.11.2018

Kamal Kishore Sharma

.....petitioner

Versus

Damanpal Singh and ors

.....respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Rajiv Joshi, Advocate,
for the petitioner.

RAJ MOHAN SINGH, J.(oral)

At the time of issuance of notice of motion on 19.4.2018,
following order was passed :-

“Learned counsel for the petitioner contends
that on 29.1.2018, evidence of the plaintiff-petitioner was
closed by order by recording that no PW was present and
plaintiff-petitioner has already availed 26 effective
opportunities.

Learned counsel for the petitioner refers to the
statements of witness(s) Kamal Kumar as well as Smt.
Romy which were recorded on the same date i.e. 29.1.2018,
showing that the facts recorded in the impugned order are
not correct. It is further stated that Jatinder Sharma was also

present on the said date and his presence was not recorded and evidence was closed by order.

Notice of motion qua the examination of Jatinder Sharma for 1.8.2018.

In the meanwhile, passing of the final order shall remain stayed.”

Vide order dated 1.8.2018, respondents No.1 and 2 were sought to be served through their counsel appearing on their behalf in the trial Court.

As per office report, respondents No.1 and 2 have been served through their advocate appearing on their behalf in the trial Court.

There is no representation on behalf of respondents No.1 and 2.

A persual of the impugned order dated 29.1.2018 would show that the plaintiff could not conclude his evidence despite 26 effective opportunities and on the date of passing of the impugned order, no PW was present.

In order to refute the aforesaid assersion recorded in the impugned order, learned counsel for the petitioner referred to examination of two of the plaintiff witnesses on the date fixed. Even statements of PW-7 and PW-8 were complete in terms of cross-examination. Third witness, namely, Jatinder Krishan Sharma was also present on the date fixed, but he could not be examined as Court time

was over.

On due consideration of the case, I deem it appropriate to grant one more opportunity to the petitioner to complete cross-examination of Jatinder Krishan Sharma on the date to be fixed by the trial Court after due notice to the respondent. However, this order shall be subject to payment of costs of ₹ 15,000/- to be paid to the respondents in equal proportions.

Payment of costs shall be the condition precedent for granting indulgence by the trial Court in the aforesaid context.

Petition stands disposed of accordingly.

November 14, 2018
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(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/Speaking Yes/No

Whether reportable *Yes/No*