

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 3509 OF 2018(O&M)

Date of decision: 09.10.2018

Astha Maini

... Petitioner

vs

Shalini Kapil and others

.. Respondents

Coram: Hon'ble Mr. Justice Harinder Singh Sidhu

Present:- Mr. Aasheem Jain, Advocate
for the petitioner.

Mr. Raj Paul Kansal, Advocate
for respondents No.1 and 2.

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Harinder Singh Sidhu, J.

The petitioner is the plaintiff and respondents are the defendants in a civil suit for declaration to the effect that the plaintiff is owner in possession of a plot measuring 80' x 45.80' ft. (411.55 Sq. Yards) situated in Rajpura, District Patiala.

The petitioner has impugned the order dated 27.04.2018 of learned Civil Judge (Junior Division), Rajpura, whereby, the cross-examination of DW- Heena Sethi has been declared to be 'NIL' and the order dated 11.05.2018 whereby the application of the petitioner for recalling the order dated 27.04.2018 was dismissed.

Learned trial Court in the impugned order has noted that though the defendant- Heena Sethi was present on various dates, however, she was not cross-examined by counsel for the plaintiff on one pretext or the other. It was also noted that the defendant-Heena Sethi has been coming from Gurugram on each and every date and there was no justification for not cross-examining her by counsel for the plaintiff.

Learned counsel for the petitioner, on the other hand, contends that there was no intentional default in not conducting the cross-examination of defendant-Heena Sethi. On one occasion, the counsel for the plaintiff had to go Delhi for visa proceedings and on another date time was consumed in cross-examination of DW-4.

Considering the facts and circumstances of the case, this petition is allowed. The impugned order dated 27.04.2018 to the extent of treating the cross-examination of DW-Heena Sethi as 'NIL' is set aside. The trial Court may grant one effective opportunity to the petitioner to cross-examine DW- Heena Sethi. This shall be subject to payment of Rs.10,000/- as costs to the defendants.

09.10.2018
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(Harinder Singh Sidhu)
Judge

Whether speaking/reasoned
Whether Reportable:

Yes
Yes/No