

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

CR No.3662 of 2017
Date of decision : 23.04.2018

Gurdial Singh

...Petitioner

Versus

Subhash and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sandeep Panwar, Advocate for the petitioner.

Mr. Y.S. Turka, Advocate for respondent Nos.1 to 3.

Mr. S.K. Jain, Advocate for respondent No.5.

ANIL KSHETARPAL, J. (ORAL)

The plaintiff-petitioner is in the revision petition against the order passed by the learned trial Court closing the evidence of the plaintiff.

On 19.05.2017, while issuing notice of motion, this Court recorded as under:-

“Learned counsel for the petitioner submits that petitioner-plaintiff is a senior citizen, aged about 87 years, and there was nobody to assist him in pursuing the present litigation. He further submits that only one witness (PW1), who has already been cross-examined by defendants No.1 to 3 but could not be cross-examined by defendants No.4 and 5, is necessary to be cross-examined. He also refers to

orders dated 6.1.2017 and 16.1.2017, available at page Nos. 23 and 25, to show that it was not the fault of petitioner but this aspect could not be properly appreciated by the learned trial court, while passing the impugned order, thereby causing a manifest injustice to the petitioner.

Notice of motion for 23.5.2017.

Process dasti as well as through the counsel of the respondents, before the learned court below.”

From the reading of the order, it is clear that the petitioner only wants that examination of PW1 who has already been examined in chief and cross-examined by learned counsel for defendant Nos.1 to 3, be also be permitted to be cross-examined by learned counsel for defendant Nos.4 and 5 so that the statement of PW1 is complete.

Learned counsel for the respondents, on the other hand, submits that the plaintiff has already taken sufficient opportunities to conclude his evidence.

Taking into consideration that the statement of PW1 has already been recorded in part inasmuch as statement in chief as well as cross-examination by learned counsel for defendant Nos.1 to 3 has already been completed, therefore, it would be in the interest of justice, if the learned counsel(s) for defendant Nos.4 and 5 is (are) also permitted to cross-examine PW1 so that the statement of PW1 is complete.

In view of the above, the order under challenge is set aside.

Revision petition is allowed. Opportunity shall be subject to the payment of costs of ₹2,000/-.

The presence of PW1 shall be ensured by the learned counsel for the plaintiff and counsel for defendant Nos.4 and 5 shall be granted opportunity to cross-examine the witness. If by any chance, witness is not present or cross-examination is not complete on the day the Court would not adjourn the case beyond 10 days thereafter for this purpose.

23.04.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No