

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

CR-7812-2016 (O&M)

Date of decision : 26.2.2018

Anil Kumar and others

..... Petitioners

Versus

**Chain Singh since deceased
through LRS and another**

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Vishal Munjal, Advocate for the petitioners.

Mr. R.S. Chauhan, Advocate for respondent No.1.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment ?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest ?*

KULDIP SINGH J. (ORAL)

Impugned in the present revision petition is the order dated 27.10.2016 (Annexure P-5), passed by learned Additional Civil Judge, Senior Division), Pathankot vide which an application filed under Order XVIII Rule 17 of the Code of Civil Procedure 1908 filed by defendants to recall plaintiff-Asha Rani for cross-examination was declined.

It appears that in the impugned order dated 27.10.2016, there is a clerical error where Asha Rani is mentioned as defendant whereas she is plaintiff.

Learned counsel for plaintiff-respondent states that affidavit of Asha Rani-plaintiff was tendered in examination in-chief. However, since the counsel for defendants was busy in another Court, therefore, she could not be cross-examined and the evidence of the plaintiff was closed.

In this way, plaintiff could not be cross-examined. Her cross-examination is material to rebutt her case. If she is not cross-examined the case of plaintiff will go un-rebutted and cause irreparable damage to the defendants.

On the other hand, learned counsel for respondent-plaintiff is not aware whether Asha Rani-plaintiff was cross-examined or not.

Keeping in view the fact that non cross-examination of the plaintiff-Asha Rani will result in a great damage to the defendants, the impugned order dated 27.10.2016 (Annexure P-5), passed by learned Additional Civil Judge, (Senior Division), Pathankot is set aside. If, Asha Rani-plaintiff is not cross-examined, she may be allowed to be cross-examined, subject to payment of Rs. 2000/- as costs for which only one opportunity shall be given to the defendants.

In view of above, revision is allowed.

(KULDIP SINGH)
JUDGE

26.2.2018
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Whether speaking / reasoned
Whether Reportable:

Yes
No