

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.8000 of 2018 (O&M)
Date of Order:27.11.2018

Nirmal Singh

..Petitioner

Versus

Naresh Kumar and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Lakhwinder Singh Sidhu, Advocate,
for the petitioner.

ANIL KSHETARPAL, J(Oral)

Plaintiff-petitioner is in the revision petition against the order passed by the court dated 05.09.2018, treating the cross-examination of the plaintiff as NIL and thereafter dismissing the application for re-call/review of order dated 05.09.2018.

Learned counsel for the petitioner has drawn attention of the court to orders dated 01.08.2018 and 08.08.2018, wherein it is noticed that no DW was present. He has further pointed out that DW1 Subhash Chander, who is defendant no.2 has already been partly examined on 30.05.2018 and 18.07.2018. He submitted that due to some unavoidable circumstances, counsel appearing for the plaintiff-petitioner could not appear and the court took an adverse view, although request for an adjournment was made.

The order passed by the learned trial court is *prima-facie* erroneous as the witness has already been partly cross-examined, therefore, at the most the court could have closed further opportunity to cross-examine

the witness. Hence, the cross-examination of defendant no.2 who has appeared as DW1 could not be treated as NIL. Still further defendant no.2 is stated to be a main witness and he did not appear in the court on 25.07.2018 as well as on 01.08.2018.

Keeping in view the aforesaid facts, the orders under challenge are set aside. Plaintiff-petitioner is granted one opportunity to complete the cross-examination of defendant no.2. The court would only allow relevant questions.

Learned counsel for the petitioner has informed that the case is now fixed for tomorrow i.e. 28.11.2018.

The trial court is directed to adjourn the case for a week with the direction to defendant no.2 to appear for further cross-examination. If the court feels that the plaintiff is unnecessarily delaying the trial of the suit, it shall be at liberty to pass appropriate orders on the date so fixed.

Since this order has been passed without issuing notice, therefore, the defendants would be at liberty to move an application for recall.

With the aforesaid observation, the revision petition is allowed.

November 27, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No