

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

Civil Revision No. 8349 of 2018

Date of Decision: December 07 , 2018.

Kulwinder Kaur

..... PETITIONER (s)

Versus

Balwinder Singh

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Bhupinder Kumar Gupta, Advocate
for the petitioner.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

Petitioner/plaintiff is aggrieved of order dated 14.11.2018 (Annexure P5) passed by the learned Civil Judge(Junior Division), Phillaur whereby her evidence has been closed by order.

Petitioner, it is submitted, filed a suit for permanent injunction against the respondent for restraining him from interfering in her peaceful possession over the suit property. Issues in this case were framed on 29.11.2017. The matter was adjourned to 05.01.2018 for plaintiff's evidence. Two more opportunities were afforded to the petitioner to lead her evidence. PW1 tendered affidavit in examination-in-chief on 23.03.2018. Cross-examination was deferred at request of learned counsel for the defendant and the matter was adjourned to

20.04.2018. PW1 was present and was cross-examined partially on 17.05.2018. PW2 Gurdev Singh, Panch tendered his affidavit in examination-in-chief and the matter was adjourned to 12.07.2018 for his cross-examination. In the interregnum, the matter was placed before the National Lok Adalat, but compromise could not be effected between the parties and the matter was listed on 11.10.2018. As no witness of the petitioner was present, the matter was adjourned to 14.11.2018 subject to payment of costs. Impugned order closing the evidence of the petitioner was passed on 14.11.2018 as no witness of the petitioner was present.

Learned counsel for the petitioner submits that it is due to unavoidable circumstances beyond the control of the petitioner that PW2 Gurdev Singh, Panch could not be produced for cross-examination. It is further submitted that the petitioner/plaintiff does not wish to examine any other witness except PW2 Gurdev Singh. Manifest injustice would be caused in case the said witness is not permitted to be cross-examined. It is submitted that the petitioner, who is the plaintiff in the civil suit, has nothing to gain by delaying the proceedings in any manner. PW2 Gurdev Singh is stated to be a material witness, to prove the case of the petitioner/plaintiff. It is thus prayed that one effective opportunity be afforded to the petitioner. The matter, it is submitted, is listed before the learned trial court on 11.12.2018.

In view of the stand of the petitioner, it is considered appropriate to dispose of this petition without issuance of notice to the respondent in order to obviate any delay and to avoid the burden of unnecessary litigation expenses upon the respondent.

Keeping in view the facts and circumstances of the case and the specific averment on behalf of the petitioner that she does not seek to lead any further evidence except that of PW2 Gurdev Singh, it is considered just and expedient to afford one effective opportunity to the petitioner to lead her evidence.

Accordingly, impugned order dated 14.11.2018 passed by the learned Civil Judge(Junior Division), Phillaur is set aside to the extent of closing of the evidence of the petitioner/plaintiff, subject to deposit of ₹25,000/- as costs by the petitioner before the learned trial court on 11.12.2018 to be paid to the respondent.

Furthermore, the petitioner shall ensure the presence of PW2 Gurdev Singh, Panch for cross-examination on 11.12.2018 itself. If for any reason the defendant is not able to cross-examine PW2 Gurdev Singh on the said date, one opportunity shall be afforded by the learned trial court for the purpose. It is made clear that if on the adjourned date PW2 Gurdev Singh is not present for cross-examination, no further opportunity shall be afforded to the petitioner and order dated 14.11.2018 shall automatically stand revived.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present revision petition.

December 07 , 2018.
'om'

(**LISA GILL**)
JUDGE

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