

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

CR No.8884 of 2017

Date of decision:07.05.2018

Rajiv Mishra

... Petitioner

Vs.

Sudhir Kumar and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present:- Mr. B.S.Sidhu, Advocate  
for the petitioner.

Mr. Pankaj Katia, Advocate  
for respondent No.1.

**AMIT RAWAL J. (Oral)**

The present revision petition is directed against the impugned order dated 25.09.2017 (Annexure P-3), passed by Civil Judge (Senior Division), Bathinda, vide which the application for recalling DW2-Sudhir Kumar for cross examination, has been declined.

Mr. B.S.Sidhu, learned counsel for the petitioner submits that counsel for the plaintiff/petitioner was not available for cross-examination of DW2 and vide order dated 17.08.2017, his cross examination was treated as 'Nil'. In order to alleviate the grievance of the petitioner/plaintiff, application was moved but the trial Court has erroneously dismissed the same on the premise that plaintiff had availed three opportunities but despite that did not cross-examine DW2. He further submits that in case, one opportunity is granted, subject to any terms and conditions which this

Court deems fit, the petitioner will conclude the entire evidence. He further submits that no prejudice would be caused to the respondents, who shall be compensated in terms of costs.

Mr. Pankaj Katia, learned counsel appearing on behalf of respondent No.1 submits that such tardy and lackadaisical approach of the petitioner has to be treated with firmly and rightly so, the application has been declined.

I have heard learned counsel for the parties and appraised the paper book.

No doubt, the conduct of the petitioner had not been diligent in pursuing the case in cross-examination but I am of the view that the lis between the parties is required to be adjudicated on merits and not on technicalities. In order to render justice, I deem it appropriate, to grant one effective opportunity to the petitioner-plaintiff before the Court below to cross-examine DW2, subject to payment of costs of ₹5,000/-.

Accordingly, the revision petition stands allowed.

(AMIT RAWAL)  
JUDGE

May 07, 2018  
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No