

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.1414 of 2017
Date of Decision : 12.12.2019

Balwinder Singh

.....Petitioner

Versus

Harjinder Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr.Narinder Kumar Vadhera, Advocate for the petitioner.
Mr. Amit Gupta, Advocate for
Mr. Vipin Mahajan, Advocate for respondent No.1.

ARUN PALLI, J. (Oral)

The petitioner is a plaintiff and is aggrieved by orders dated 18.10.2016 (Annexure P1), vide which he has been denied the opportunity to cross examine one of the witness of the defendant i.e. DW-5 as also the order dated 16.12.2016 (Annexure P-3), whereby even the application moved by the petitioner to recall the earlier order and to afford him one opportunity to cross-examine DW-5, has also been dismissed.

Ex facie, on 18.10.2016, the matter was posted for cross-examination of three of the defendants witnesses that are DW3 to DW5. It is not disputed either that counsel for the petitioner cross-examined DW-3 before lunch and the matter was kept for cross-examination of DW4 and DW5 in the second session. However, as observed by the trial Court since counsel for the plaintiff failed to turn up to cross examine DW5, and having waited till 3.55 P.M. the cross-examination of the said witness was treated as nil. But, significantly, the matter was adjourned for cross-examination of DW4 as he was not present. Thus, in the given situation, even if, it is

assumed that petitioner was remiss in pursuing his cause or his counsel ought to have cross-examined DW5, who was present and was required to be cross-examined post lunch, yet once the matter was adjourned to 9.11.2016 for cross- examination of DW4, for, in all fairness even cross-examination of DW5 could also be deferred for the same date. Needless to assert that petitioner is plaintiff in the suit and would gain nothing by delaying his own cause. On the contrary if in the given situation, the petitioner-plaintiff is denied to cross-examining DW5 it may cause him an irreparable loss and might also result in miscarriage of justice.

That being so, the revision petition is allowed and the impugned orders dated 18.10.2016 (Annexure P-1) and 16.12.2016 (Annexure P-3), are set aside. The petitioner is granted one effective opportunity to cross-examine DW5 on the date that shall be fixed by the trial Court in this regard. However, it is made clear that in the event of default, the matter shall not be adjourned at any cost. No further opportunity shall be granted to the petitioner to cross-examine the said witness. For, owing to an interim order dated 02.03.2017, as submitted by learned counsel for the parties, the suit has not made any tangible progress, parties shall appear before the trial Court on 16.12.2019.

12.12.2019

*Manoj Bhutani***(ARUN PALLI)
JUDGE**

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