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

CR No. 503 of 2019

Date of Decision: 05.02.2019

Lala Hans Raj Memorial Educational Society through its
Chairman

-Petitioner

Vs

Vijay Aggarwal and others

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Brijeshwar Singh Bhalla, Advocate,
for the petitioner.
Mr. Abhinav Singla, Advocate,
for the caveators-respondents.

RAJ MOHAN SINGH, J. (ORAL)

Petitioner has preferred this revision petition against the order dated 14.12.2018 passed by Civil Judge (Senior Division), Moga whereby evidence of the plaintiff was closed and the request for deferring cross-examination of plaintiff himself was declined.

Perusal of the record would show that plaintiff evidence started w.e.f. 24.07.2015. Examination-in-chief of PW2 Rajan Aggarwal was recorded on 17.11.2017. On 04.07.2018, his cross-examination was partly conducted and thereafter, remaining cross-examination was deferred.

On 05.05.2018, an application for exemption was filed by the plaintiff Rajan Aggarwal due to ill health without filing

any medical evidence, still case was adjourned at his request. On the adjourned date i.e. 28.09.2018, another application for adjournment was filed by Vardaan Garg, Advocate on the ground that regular Advocate Mr. S.K. Garg had gone abroad. The case was adjourned. Even thereafter, on 27.11.2018, another application was filed for adjournment on the ground that the plaintiff was busy in conducting examination in Lala Hans Raj Memorial College. Prayer was allowed and last opportunity was granted to Rajan Aggarwal to step into the witness box for cross-examination on 14.12.2018. For the adjourned date, even Manish, Manager UCO Bank was summoned along with relevant record which was to be put to the witness. Despite that, witness did not appear and the Court ultimately closed the evidence by order. The summoned witness along with record had to return after wasting his time.

Perusal of the record would show that the witness was given ample opportunities for his remaining cross-examination.

Learned counsel for the petitioner by referring to orders dated 16.07.2018, 07.08.2018 and 29.10.2018 contended that the aforesaid orders have not been considered while passing the impugned order. Perusal of these orders would show that cross-examination of the witness was further conducted in parts and thereafter, the same was deferred. In

view of consideration of these orders, fate of the case would have been different.

I have considered the arguments made by learned counsel for the parties.

There is some omission on the part of the petitioner in not making himself available for further cross-examination but the fact remains that rigor of orders dated 16.07.2018, 07.08.2018 and 29.10.2018 have not been noticed in the impugned order.

Even though the omission on the part of the petitioner can be noticed but the same can be equitably answered by giving one and last opportunity to the petitioner to produce himself for further cross-examination by the defendants on a date to be fixed by the trial Court after due notice to the parties.

This exercise, would however, be subject to payment of costs of Rs.20,000/- to be paid to the defendants.

Payment of costs shall be the condition precedent for granting indulgence by the trial Court.

Disposed of.

05.02.2019
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No