

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No. 4207 of 2018
Date of Decision: May 09, 2019

Major Singh

... Petitioner

Versus

Manveen Kaur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rishav Jain, Advocate,
for Mr. Rajinder Sharma, Advocate,
for the petitioner.

Mr. Veneet Sharma, Advocate,
for respondent No.1.

Amit Rawal, J. (Oral)

Present revision petition is directed against the order dated 16.04.2018 whereby request of the petitioner-defendant for cross examination of DW4 has been declined.

Mr. Rishav Jain, learned counsel, appearing on behalf of the petitioner submitted that as per the zimni orders (Annexure P/3) dated 18.01.2018, DW4 was present and examined in chief by way of affidavit. His cross examination was deferred to 01.02.2018. On 01.02.2018, he was not present and the matter was adjourned to 12.02.2018. Even on 12.02.2018, he was not present and ultimately, as per order dated 30.03.2018, cross-examination was deferred to 16.04.2018 subject to cost of Rs.300/-. However, vide impugned order dated 16.04.2018, evidence of the defendant has been closed by order.

Mr. Veneet Sharma, learned counsel, appearing on behalf of the respondent submitted that more than five opportunities had been availed by the defendant for offering the DW4 for cross-examination and therefore, no special circumstances occurred for challenging the impugned order.

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

The approach of the petitioner not bringing the DW4 for cross-examination after examination in chief is not of an act of diligence but lackadaisical, however, in order to advance justice and prevent miscarriage of justice, I deem it appropriate to grant one more opportunity to the petitioner to make available DW4 and to cross-examine.

Learned counsel for the respondent submits that direction may be issued to the trial Court to decide the suit as expeditiously as possible.

Keeping in view the aforementioned observations, the impugned order is set aside and the petitioner-defendant shall conclude the evidence in accordance with law subject to payment of costs of Rs.2500/- which shall be condition precedent. If the costs is not paid as directed, the order passed already by the court below shall stand restored.

Revision petition stands allowed.

May 09, 2019
vkd

(Amit Rawal)
Judge

Whether speaking / reasoned : Yes

Whether reportable : No