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

**Civil Revision No.5059 of 2018 (O&M)
Date of Decision: 18.03.2019**

KULDEEP KAUR

.....Petitioner

Vs

ASHA DEVI @ ASHA RANI & ORS

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Naveen Upadhyay, Advocate
for the petitioner.

Mr. Aayush Gupta, Advocate
for the respondents.

RAJ MOHAN SINGH, J. (Oral)

[1]. This revision revision has been preferred against the order dated 10.05.2018 and 24.02.2018 passed by the Civil Judge (Jr. Divn.) Ludhiana vide which cross-examinations of DW-1 and DW-2 at the instance of the plaintiff were treated to be nil and further the application for recalling DW-1 and DW-2 for cross-examination was also dismissed.

[2]. Both the impugned orders have been assailed on the ground that vide order dated 24.01.2018, DW-1 Satinder Yadav was partly cross-examined and the case was adjourned for

remaining cross-examination of DW1 and other remaining defendant evidence. Cost(s) was imposed upon the defendants for leading evidence. The cost(s) was paid only after passing of the impugned orders.

[3]. The impugned order dated 10.05.2018 was passed on the premise that examination-in-chief of DW-1 Satinder Yadav was done on 15.12.2017. Examination-in-chief DW-2 Asha Devi was done on 19.03.2018. DW-1 Satinder Yadav was present for cross-examination on 11.01.2018 and 19.03.2018, but he was not cross-examined by the plaintiff. Thereafter, both the witnesses were present for cross-examination, but the cross-examination was not done. Owing to the conduct of the plaintiff, the cross-examinations of DW-1 and DW-2 were treated to be nil at the instance of the plaintiff. Attempt to get the witnesses recalled was also negated by the trial Court vide order dated 24.02.2018.

[4]. Perusal of the record would show that though there is some inaction on the part of the petitioner, but the said inaction in my considered opinion is curable and the same can be rectified by way of imposing adequate costs upon the petitioner for cross-examination of the witnesses viz. DW-1 and DW-2 on a date to be fixed by the trial Court.

[5]. In view of above, the impugned orders dated

10.05.2018 and 24.02.2018 passed by the Civil Judge (Jr. Divn.) Ludhiana are set aside. This revision petition is allowed. One opportunity is granted to the petitioner to cross-examine DW-1 and DW-2, however subject to payment of costs of Rs.15,000/- to be paid to the respondents in equal proportion. The trial Court shall fix a date for cross-examination of the aforesaid witnesses and thereafter the witnesses shall be made available for their cross-examination by the plaintiff.

[6]. Payment of costs shall be the condition precedent for granting indulgence by the trial Court in the aforesaid context.

March 18, 2019

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Whether speaking/reasoned
Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No
Yes/No