

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

**CR No.5292 of 2018(O&M)
Date of Decision:02.09.2019**

**Dayawanti
Versus**

.....Petitioner

Rakesh and others

.....Respondents

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

Present: Ms. Divyastuti Parsoon, Advocate and
Mr. Rohit Mittal, Advocate
for the petitioner.

Ms. Bhavna Grewal, Advocate
for respondents No.1 to 3.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioner has challenged the order dated 31.07.2018 passed by Additional Civil Judge (Senior Division), Jind, Vide which the evidence of the defendants was closed by order of the Court except the cross-examinations of DW 2 and DW 3 whose cross-examinations were deferred at the instance of the plaintiffs.

[2]. Perusal of the record would show that on 31.07.2018, DW 2 and DW 3 were present in Court, but they were not cross-examined by learned counsel for the plaintiffs and the case was adjourned for cross-examinations of aforesaid witnesses. No other DWs were present. Evidence of the defendants was closed to the extent of not allowing them to adduce any further evidence except the cross-examinations of DW 2 and DW 3.

The said order was passed keeping in view the interlocutory orders brought on record showing the number of adjournments availed by the defendants.

[3]. Since the evidence of the defendants was closed by order of the Court except the cross-examinations of DW 2 and DW 3 who were present in Court on 31.07.2018, therefore, it can be appreciated that if the remaining witnesses were present on the date fixed i.e. 31.07.2018, learned counsel for the plaintiffs would not have cross-examined them due to his incapacity to examine the witnesses who were present in Court on that date. This analogy would entail in grant of one more opportunity to the defendants for leading their entire evidence on a date to be fixed by the trial Court on their own responsibility without availing process of the Court in any manner, however, subject to payment of costs of Rs.11,000/- to be paid to the plaintiffs/respondents. Payment of costs shall be the condition precedent for granting indulgence by the trial Court in the aforesaid context.

[4]. Disposed of.

September 02, 2019	(RAJ MOHAN SINGH)
Prince	JUDGE
Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No