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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.6639 of 2018

Date of Decision: 04.02.2019

Saroop Singh and another

..... Petitioners

Versus

Madan Madhosh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Sunny K.Singla, Advocate,
for the petitioners.

Mr. Gitish Bhardwaj, Advocate,
for the respondents.

SUDIP AHLUWALIA, J. (ORAL)

The petitioners, who are respondents No.3 and 4 in the Eviction Petition pending before the Ld. Rent Controller, Malerkotla, are aggrieved that they are denied the opportunity to cross-examine RW-1 and RW-2, the witnesses called from the side of respondent No.2 – Hari Singh, who according to the landlord (respondent No.1) otherwise happens to be another partner with the petitioners in the Firm M/s Dashmesh Engineering Works, College Road, Malerkotla, the respondent No.1 in the Eviction Petition.

2. The Ld. Court below refused the opportunity to the petitioners to cross-examine RW-1 and RW-2, since it was of the opinion that there was no conflict in the interest involved between both the sets of respondents and so it was immaterial that the two Respondent Witnesses

summoned at the instance of respondent No.2 were cross-examined by the other set of respondents or not.

3. In the opinion of this Court, such presumption of the Ld. Trial Court is somewhat unfounded in the given facts and circumstances. It needs to be remembered that the present petitioners had filed their Written Statement separate from that of the other respondents, and so when witnesses were summoned from the side of the other set of the respondents, there could not be an automatic presumption that those witnesses would necessarily represent and support the interest of the separate set of respondents.

4. In all fairness, Ld. Counsel for respondent No.1/landlord submits that his client would have no objection if an opportunity is granted to the present petitioners to cross-examine both the RW-1 and RW-2, provided the same is completed in the course of a single effective date.

5. In the circumstances, the impugned order dated 06.08.2018, passed by the Ld. Rent Controller, Malerkotla, (Annexure P-5) is set aside and liberty is granted to the petitioners to cross-examine the RW-1 and RW-2 on a single effective date. It shall be the responsibility of the original respondent No.2 to secure the attendance of those witnesses for cross-examination and in the event of his failure to do so, appropriate consequences are liable to follow.

6. Disposed off.

04.02.2019*Apurva***(SUDIP AHLUWALIA)
JUDGE**

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