

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.113

CR-6940-2018

Date of decision: 16.01.2019

Baldev Singh

....Petitioner

versus

Gurcharan Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. B.S. Bhalla, Advocate
for the petitioner.

Mr. Aayush Gupta, Advocate
for respondents No.1 and 2.

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DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 10.09.2018 passed by the Civil Judge (Junior Division), Ludhiana (for short – the Trial Court) declining the prayer made by the petitioner to cross-examine Dr. Seema Sharda, Director FSL, Mohali, who had been produced by respondents No.1 and 2 as one of their witnesses. Also under challenge is the order dated 03.10.2018 passed by the Trial Court dismissing the application filed by the petitioner seeking review of the aforesaid order dated 10.09.2018.

Learned counsel for the petitioner submits that the Trial Court erred in rejecting the prayer made on behalf of the petitioner to cross-examine Dr. Seema Sharda, Director FSL, Mohali, who had been produced as a witness by respondents No.1 and 2/plaintiffs after observing in the

impugned order that several opportunities had already been granted to the petitioner to cross-examine the aforesaid witness which remained unavailed of. He submits that on two dates the aforesaid witness was in fact partly cross-examined but on three occasions her cross-examination could not be done by learned counsel for the petitioner on account of some personal difficulty of the counsel. It is submitted that subject to payment of reasonable costs to be assessed by this Court, only one opportunity be granted to the petitioner to cross-examine the aforesaid witness as in the absence of such cross-examination, the testimony of the aforesaid witness would be accepted virtually by default.

Learned counsel for the respondents opposes the above prayer made on behalf of the petitioner by submitting that adequate opportunities have already been granted to the petitioner to cross-examine the aforesaid witness and the petitioner is unnecessarily attempting to delay the final decision in the suit.

The record reveals that on two occasions, Dr. Seema Sharda, Director FSL, Mohali, was partly cross-examine on behalf of the petitioner but her cross-examination could not be completed. Only one further opportunity for doing the needful is prayed for.

In the above peculiar facts and in line with the principles of natural justice as also for the reason that the petitioner may not be precluded from raising all possible defences at the very initial stage of the litigation between the parties, after setting aside the impugned order, the petitioner is granted one and only one effective opportunity to cross-examine Dr. Seema Sharda, Director FSL, Mohali. However, the same shall be subject

to payment of ₹25,000/- as costs to be paid by the petitioner to respondents
No.1 and 2 through a demand draft made in their favour.

The petition is allowed in the above terms.

(DEEPAK SIBAL)
JUDGE

January 16, 2019
Jyoti 1

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No