

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

Sr. No.117

C.R. No.2997 of 2019

Date of decision: 08.05.2019

Shree Patshahi Chevi Gurudwara Sahib

....Petitioner

versus

Jagjit Singh Sidhoo and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. S.K. Sandhir, Advocate
for the petitioner.

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DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 07.01.2019 passed by the Civil Judge (Junior Division), Ludhiana (for short – the Trial Court) through which cross-examination of PW-1 Charanjit Singh by the petitioner/defendant No.4 has been ordered to be treated as nil.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that respondent No.1 filed a suit seeking therein a declaration that he and respondent No.6 be declared owner in symbolic possession, through respondent No.5 mortgagee, of land measuring 93 kanal 5 marlas detailed and described in the head note of the plaint (for short – the suit property). He based his claim on a Will dated 12.12.1978 executed by Narinder Singh, who was the father of respondent No.1 and respondent No.6. Sale deed dated 13.03.2006 in favour of the petitioner with regard to 18 kanal 13 marlas out of the aforesaid 93 kanal 5 marlas was also challenged. Permanent injunction to restrain the petitioner

and respondents No.2 to 4 from transferring or alienating any share of the suit property was also sought. On being put to notice, the petitioner, who was defendant No.4 in the suit, appeared before the Trial Court and filed its written statement. Thereafter, the Trial Court framed issues. During the course of leading his evidence, respondent No.1/plaintiff produced PW-1 Charanjit Singh as his witness. The said Charanjit Singh was examined-in-chief and partly cross-examined by learned counsel appearing on behalf of respondents No.2 to 4/defendants No.1 to 3. Since his cross-examination was not completed, the matter was adjourned to 07.01.2019 for his further cross-examination. On 07.01.2019, since there was a bereavement in the family of learned counsel appearing on behalf of respondents No.2 to 4, a request for adjournment was sought and got for further cross-examination of PW-1 Charanjit Singh by him. On the happening of such event, on that very day itself i.e. 07.01.2019, opportunity was granted to learned counsel appearing on behalf of the petitioner/defendant No.4 to cross-examine PW-1 Charanjit Singh and when he showed his inability to do so, cross-examination of PW-1 Charanjit Singh by the petitioner/defendant No.4 was ordered to be treated as nil. Such order by the Trial Court is under challenge in the present proceedings.

Learned counsel for the petitioner has been heard.

On 07.01.2019, the matter was listed before the Trial Court for further cross-examination of PW-1 Charanjit Singh by respondents No.2 to 4/defendants No.1 to 3. However, on that day, there was a bereavement in the family of learned counsel appearing on behalf of respondents No.2 to 4 and therefore, a request for adjournment was made on his behalf which was accepted by the Trial Court. On the happening of such event, opportunity

was granted by the Trial Court to learned counsel appearing on behalf of the petitioner/defendant No.4 to cross-examine PW-1 Charanjit Singh. Being unprepared, learned counsel for the petitioner/defendant No.4 did not cross-examine PW-1 Charanjit Singh. On 07.01.2019, the matter was not listed for cross-examination of PW-1 Charanjit Singh by the petitioner. That being so, the Trial Court rather harshly and hastily went on to pass the impugned order treating cross-examination of PW-1 Charanjit Singh by the petitioner/defendant No.4 as nil. In the facts of the present case, at least one more opportunity should have been granted by the Trial Court to the petitioner to cross-examine PW-1 Charanjit Singh.

In view of the above, the impugned order is set aside and the petitioner is granted one opportunity to cross-examine PW-1 Charanjit Singh but only after his cross-examination at the hands of learned counsel appearing on behalf of respondents No.2 to 4 is completed.

The present petition is allowed in the above terms.

If the respondents are aggrieved by passing of the present order they are at liberty to approach this Court by filing of an appropriate application.

(DEEPAK SIBAL)
JUDGE

May 08, 2019
Jyoti 1

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No