

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

CR No. 2949 of 2019(O&M)

Date of decision: 6.5.2019

Anil Arora

.....Petitioner

VERSUS

Barinder Pal Singh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. S.P. Garg, Advocate for the petitioner.

REKHA MITTAL, J. (Oral)

The present petition directs challenge against order dated 08.03.2019 (Annexure P-10) passed by the Rent Controller, Jalandhar whereby cross examination of PW-1 has been treated as 'Nil' on account of failure of counsel for the petitioner (respondent therein) to cross-examine the said witness on certain dates fixed for the purpose.

It is submitted that the case is still pending for evidence of the respondent (petitioner therein) for 23.05.2019. It is argued that a serious prejudice shall be caused to the petitioner in case he is not permitted to cross-examine Barinder Pal Singh PW-1 who has filed application for eviction against the petitioner. It is further argued that the petitioner is ready to compensate the respondent for his appearance in the Court again in order to enable the petitioner to conduct his cross examination.

Be that as it may, perusal of the impugned order certainly indicates that PW-1 was not cross examined by counsel for the petitioner despite his appearance in the Court on several occasions and even the costs imposed by the Court on the previous date were not paid. However, it

remains a fact that the case is still pending for examination of remaining witnesses of the petitioner. In case the petitioner is not permitted to cross examine the respondent/alleged landlord, it would be of serious consequence for the petitioner as his statement in examination in chief would be read into evidence without any challenge.

Taking into consideration the interest of substantial justice, order dated 08.03.2019 treating cross examination of PW-1 as Nil is set aside and the petitioner is allowed one opportunity to cross examine Barinder Pal Singh PW-1 but subject to payment of costs of Rs.10,000/- to be paid to Barinder Pal Singh by way of demand draft at the time of his appearance in the witness box for the purpose of cross examination. The petitioner shall ensure that Barinder Pal Singh is cross examined on the same very day on which he causes appearance before the Rent Controller for the purpose and the petitioner shall not be entitle to any adjournment for cross examination of remaining witnesses and he would ensure his/her cross examination on the day the witness appears in the dock for examination in chief so that the petitioner is not able to prolong the proceedings for eviction.

Before parting with this order, it is clarified that the petition has been disposed of without notice to the respondent in order to save him from unnecessary expense and inconvenience. However, the respondent would be at liberty to file an appropriate application in case he has any grievance to express.

MAY 6, 2019

‘D. Gulati’

Whether speaking/reasoned :

Whether reportable :

(REKHA MITTAL)

JUDGE

yes/no

yes/no