

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

**C. R No. 4172 of 2019
Date of decision : 09.07.2019**

Harsh Sharma @ HappyPetitioner
versus

Raj Kumar and ors. ...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Varun Katyal, Advocate
for the petitioner.

RITU BAHRI, J. (Oral)

Challenge in this petition is to order dated 08.04.2019 and 23.04.2019 passed by learned Addl. Civil Judge (Sr. Divn.) Kalka and for recalling PW1 namely Raj Kumar to enable the petitioner to re-examine him.

At the very outset, learned counsel has referred to zimini orders (P-1 colly) to show that plaintiffs/respondents failed to conclude their evidence despite taking 13 opportunities as observed in orders dated 29.05.2018, 29.08.2018, 24.09.2018, 23.10.2018 and 19.12.2018. It was only on 29.01.2019 P.W.1 was present but was not cross examined and the matter was adjourned to 11.02.2019 and on that date, he was partly cross-examined. The remaining cross examination was deferred to 25.02.2019. On 25.02.2019, the petitioner sought an adjournment and the matter was adjourned to 19.03.2019 and on 19.03.2019 no PWs were present and the case was adjourned to 08.04.2019 but on 08.04.2019, vide impugned order dated 08.04.2019, the cross examination of P.W.1 Raj Kumar was

considered as NIL and the matter was adjourned to 23.04.2019 for remaining plaintiff's evidence. Further the application of the petitioner for recalling P.W.1 for cross examination has also been dismissed vide order dated 23.04.2019.

A bare perusal of the impugned order shows that the defendant/petitioner was always ready and willing to cross examine P.W.1 Raj Kumar. Learned counsel further submits that affidavit of the petitioner has been placed on record.

In view of the above factual position, the present revision petition stands allowed and orders dated 08.04.2019 and 23.04.2019 are set aside. The petitioner is granted one effective opportunity to cross examine P.W.1 Raj Kumar, subject to deposit of cost of Rs.10,000/- by the petitioner before District Legal Services Authority, Panchkula.

09.07.2019

G.Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No