

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

CR-8449-2018 (O&M)

Date of decision: 01.04.2019

Maninder Kaur

...Petitioner

Versus

Simarjit Kaur

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Ms. Aashna Gill, Advocate
for the petitioner.

Mr. Rajinder Goyal, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

This revision petition is directed against order dated 03.11.2018, passed by Civil Judge (Jr. Divn.), Kurukshetra, by virtue of which, further cross examination of DW-6-Simarjit Kaur was closed by order.

I have gone through the impugned order. A perusal of which reveals that DW-6 Simarjit Kaur had been recalled for further cross examination. The case was called by the Court several times since morning. Witness was present, however, learned counsel for the plaintiff did not appear. The file was ordered to be put up after lunch. It was so done at 2 PM. Counsel for the plaintiff had again not come present. File was taken up at 4.15 PM when counsel for the plaintiff came present and started cross examination. It continued upto 5 PM.

Court time was over. Counsel sought more time. His request was accepted. Cross examination continued upto 5.45 PM. Vide detailed order, further cross examination of the witness was closed by order. No fault can be found with such order passed by the trial Court. The conduct of learned counsel for the plaintiff to say the least, is such, which cannot be appreciated. However, in the interest of justice, to ensure that a litigant does not suffer on account of fault of his/her counsel, I find that it would be proper and appropriate, if one more opportunity is granted to the plaintiff to cross-examine DW-6 Simarjit Kaur, of course, on payment of costs. Therefore, the impugned order is set aside by way of acceptance of the present revision petition and the plaintiff is afforded one more opportunity to cross examine DW-6, subject to payment of Rs.10,000/- as costs by the plaintiff to the defendant. The payment/deposit of costs shall be a precondition for allowing the plaintiff to further cross examine DW-6.

Learned counsel for the respondent states that the defendant would ensure the appearance of DW-6 Simarjit Kaur in the Court on the date fixed i.e. 23.04.2019. Let it be so done. The plaintiff shall ensure the appearance of her counsel in the trial Court at 10 AM sharp. On DW-6 appearing in the Court, further cross examination of such witness shall be started by the trial Court and counsel for the plaintiff shall be allowed reasonable time and permitted to ask relevant questions only. The trial Court shall be at liberty to decline the asking of questions by counsel for the plaintiff to such witness, if, found to be

irrelevant or scandalous and if, it is observed that despite such questions being disallowed, counsel still persists in asking such type of question, the trial Court shall be justified in closing further cross examination by order. It is made clear that no adjournment for the purpose shall be granted at the instance of the plaintiff. It is further observed that if for any reason DW-6 is not in a position to appear in the Court on the date fixed as 23.04.2019, then, the trial Court shall fix a short date for her appearance, on which date, further cross examination would be allowed in the manner as detailed above. With such observations, the revision petition stands disposed of.

A copy of the order be sent to the trial Court through District & Sessions Judge, concerned for information and necessary action.

01.04.2019

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No