

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

**Sr. No.114**

**CR No.8236 of 2019**

**Date of decision: 19.12.2019**

Raj Kumar

....Petitioner

versus

Raj Kumar

....Respondent

**CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL**

Present: Mr. Naveen Bawa, Advocate  
for the petitioner.

\* \* \*

**DEEPAK SIBAL, J. (Oral)**

The present petition is directed against the order dated 14.05.2019 passed by the Civil Judge (Junior Division), Ludhiana, (for short – the Trial Court) through which PW-1 Raj Kumar's cross-examination was ordered to be treated as Nil.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that the respondent filed a suit seeking therein specific performance of agreement to sell dated 07.04.2017 pertaining to land measuring 100 sq. yds. detailed and described in the head note of the plaint (for short – the suit property). Permanent injunction to restrain the petitioner, who was the defendant in the suit, from alienating the suit property was also sought. On being put to notice, the petitioner appeared before the Trial Court and filed his written statement disputing the respondent's claim. Thereafter, the Trial Court framed issues. During the course of leading his evidence, on 17.01.2019 the respondent/plaintiff produced himself as PW-1. Thereafter, on three occasions PW-1 was

available in Court but was not examined by the petitioner. That being so, the impugned order was passed by the Trial Court ordering the cross-examination of PW-1 Raj Kumar to be treated as Nil.

Learned counsel for the petitioner submits that out of the three opportunities granted to the petitioner to cross-examine PW-1 Raj Kumar, on one date his counsel was not feeling well and on the other two occasions, due to some personal difficulty on the part of the counsel appearing for the petitioner before the Trial Court, the witness could not be cross-examined.

After considering the above submissions and in line with the principles of natural justice as also for the reason that the petitioner may not be precluded from leading his defence at the threshold of the litigation that he faces, subject to payment of ₹25,000/- as costs to be paid by the petitioner to the respondent, the impugned order is set aside and the petitioner is granted one effective opportunity to cross-examine PW-1 Raj Kumar.

The petition is allowed in the above terms.

The Trial Court shall ensure that the awarded costs ordered to be paid by the petitioner to the respondent are transferred to respondent's bank account.

If the respondent is aggrieved by passing of the present order he is at liberty to approach this Court by filing of an appropriate application.

**(DEEPAK SIBAL)**  
**JUDGE**

**December 19, 2019**  
*Jyoti 1*

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No