

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

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**CR No. 247 of 2020
Date of decision : 14.1.2020**

Salochna Devi

.....Petitioner

Vs.

Rajesh Diwedi and others

.....Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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

Rajbir Sehrawat, J. (Oral)

The present petition has been filed under Article 227 of the Constitution of India for setting side the impugned order dated 16.12.2019, passed by the learned Civil Judge (Junior Division), Anandpur Sahib, vide which evidence of the plaintiff/petitioner is closed by order in CS No. 475 of 2014 titled as Salochan Devi v. Rajesh Diwedi and others.

It is contended by learned counsel for the petitioner that the evidence of the plaintiff/petitioner has wrongly been closed by order of the Court without cross-examination of PW Baldev Raj, resulting thereby in wiping out the testimony of the PW Baldev Raj. On the said date, PW Baldev Raj was to be cross examined. However, being out of station and due to illness of his daughter on the said date, PW Baldev Raj had not appeared for cross examination. But the absence of the witness from the Court on the said date was not intended to avoid cross-examination or to prolong the proceedings of the suit. This fact is clarified by the previous order, which shows that the said witness was duly present before the Court on 18.11.2019 and had been examined in chief. Hence, the closure of the evidence would tantamount to

denial of opportunity to the plaintiff/petitioner to present her case in the right perspective.

In view of the nature of the order being passed in this case, issuance of notice to the opposite party is not deemed necessary by this Court.

Having heard learned counsel for the petitioner and having perused the file, this Court finds substance in the arguments of learned counsel for the petitioner. Even if the plaintiff had earlier availed several opportunities, the fact remains that the witness, whose cross-examination has been denied by the Court now, was present on a previous date and had furnished his affidavit in examination-in-chief. There is nothing on record to show as to why he could not be cross-examined on the said date. Therefore, the said witness cannot be said to have the intention to avoid the cross-examination or the intention to prolong the proceedings as such. In any case, it would not be unjustified to grant one more opportunity to the petitioner/plaintiff to produce the said witness for cross examination, to meet the ends of justice.

Accordingly, the present petition is disposed of with a direction to the trial Court to grant one effective opportunity to the petitioner/plaintiff to produce PW Baldev Raj for cross examination. Counsel for the petitioner has also pointed out that the case is now fixed for 20.1.2020 and that the petitioner will produce the said witness on that date itself. Accordingly, it is clarified that the petitioner shall produce the said witness before the trial Court on the next date fixed before the trial Court.

(RAJBIR SEHRAWAT)
JUDGE

14.1.2020

Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No