

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

CR No. 557 of 2020

Date of Decision: 27.1.2020

Amit and another

...Petitioners

Vs.

Sahdev Singh and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Jaswinder Singh, Advocate
for the petitioners.

RAJIV NARAIN RAINA, J. (Oral)

1. Heard for disposal at the first hearing.
2. The petitioners are defendants in the suit. For the reasons to follow, this petition is dismissed as there is no infirmity found in the impugned order of the trial Court permitting the cross-examination of the plaintiff by the defendant although the former may have taken six dates after filing his examination-in-chief on affidavit. Counsel is unable to tell the date when the service of summons in suit was effected on his party and the date when the written statement was filed, to count time and evaluate their conduct in the delay.
3. Counsel is also unable to tell me whether the plaintiffs had led other documentary and oral evidence or was the plaintiff-witness PW-1 the sole witness of their case. Let us assume that PW-1, the witness who tendered the examination-in-chief, was the sole witness for the plaintiffs, if the answer is yes, then the trial court has caused no

injustice or prejudice to the defendant/s by allowing the plaintiffs' application for recording his cross-examination to be conducted by the opposite party, even though, the trial court had on two earlier occasions closed the evidence by order. Even if other witnesses were cited by the plaintiffs in support of their case, even then it would hardly impact the impugned order.

4. The role of the court of first instance always is to balance the ends of justice in a case by judicious exercise of discretion for a contested decision on merits. In exercise of that power, the trial court has not committed any illegality or exercised it with material irregularity in passing the order under review. He has kept within the bounds of his jurisdiction and has not over-stepped it.

5. No cogent ground for interference is made out.

6. The petition is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

27.1.2020

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Whether speaking/reasoned : *Yes*
Whether reportable : *Yes/No*