

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

CR-7981-2019 (O&M)
Date of decision : 02.03.2020

Sunila Jain and another

...Petitioners

Versus

Rajiv Jain

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

Mr. Hitesh Pandit, Advocate for the respondent.

ANIL KSHETARPAL, J. (ORAL)

The plaintiff-Rajiv Jain was partly cross-examined before Lunch Session on 23.07.2019. However, in post lunch session, learned counsel for the defendant did not appear. Therefore, opportunity for further cross-examination was treated as NIL.

Learned counsel for the defendant filed an application submitting that he remained under impression that the case has been adjourned. Learned Court dismissed the application, while recording as under:-

“3. Arguments heard, record perused. Perusal of the file reveals that PW1 Rajiv Jain has been coming present before the court from last 4 dates but, despite opportunity the counsel for the applicant has failed to cross-examine him and on the date of impugned order i.e. 23.07.2019, PW1 was

present since morning and he was partly cross-examined before lunch, but after lunch case was called several times but, the counsel for applicant did not cross-examine the witness, and as such after giving sufficient opportunities, the opportunity for cross-examination of PW1 was treated as Nil. There is no ground made out for recalling the order dt.23.07.2019 and also the court cannot review its own order and the applicant is free to avail appropriate remedy against the said order. Accordingly, the present application stands dismissed.”

Keeping in view the facts of the case and the reasons recorded, the conduct of the learned counsel for the defendant is not appreciable.

However, in the interest of justice, the defendant-petitioner is granted one more opportunity to complete the cross-examination of the plaintiff on the day to be fixed by the trial Court within 15 days, subject to payment of costs of ₹25,000/- which shall be the condition precedent for grant of opportunity. The costs shall be payable by way of demand draft in favour of the plaintiff.

In view of the above, the present revision petition is disposed of.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

02.03.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No