

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

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**CR No.560 of 2022 (O&M)**  
**DATE OF DECISION : 21<sup>st</sup> FEBRUARY, 2022**

**Hari Pal Singh @ Hari Paul Singh through Special Power of  
Attorney Sukhjinder Singh**

**.... Petitioner**

**Versus**

**Gian Singh**

**.... Respondent**

**CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT**

Present : Mr. Krishan Sehajpal, Advocate for the petitioner.

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**RAJBIR SEHRAWAT, J. (Oral)**

This is a revision petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 02.12.2019 (Annexure P-3) passed by the Civil Judge (Junior Division), Phillaur, District Jalandhar (for short, the trial Court), whereby opportunity to the present petitioner to cross-examine the PW/plaintiff has been treated as Nil; and to set aside the order dated 10.02.2020 (Annexure P-6) passed by the trial Court, whereby the application for recalling the plaintiff for cross-examination has been dismissed.

It is submitted by the counsel for the petitioner that after framing of the issues in the case, the first date for examination of the witnesses of the plaintiff was 22.10.2019. On that day, one PW was examined in chief. The cross-examination of the said witness was deferred on request of the counsel for the present petitioner. The case was adjourned

to 14.11.2019. However, on 14.11.2019 the plaintiff did not present his witness for cross-examination, although the counsel for the present petitioner-defendant was present before the Court. The case was adjourned to 02.12.2019. On that day, because of wrong presumption about the date fixed in the case, the counsel for the present petitioner could not come present before the trial Court. Hence, the cross-examination of the sole witness, present on that day, could not be conducted. However, the default in cross-examining the said witness was not intentional on the part of the petitioner. Accordingly, the petitioner deserves one more opportunity to cross-examine the witness(es) of the plaintiff.

In view of order which this Court intends to pass, this Court does not deem it necessary to issue notice to the other side.

This Court has heard the argument of the counsel for the petitioner and has perused the case file. There cannot be any denying of the fact that the petitioner has been lacking in vigilance, at least, to some extent in conducting the cross-examination of the witnesses of the other side. However, in the opinion of this Court, the default of petitioner is not of such grave degree as to warrant the action of depriving him of the opportunity to cross-examine the other side. If the petitioner is denied opportunity to cross-examine the witnesses of the other side, then the case of the petitioner is likely to be prejudiced to any extent. Moreover, the procedural law is handmade to advance the disbursal of the substantial justice. In case of conflict between the procedural law and the interest of substantial justice, the Court has to lean towards the interest of the substantial justice. Accordingly, it would not be unjustified to grant one more effective opportunity to the present petitioner to cross-examine the witnesses of the other side.

In view of the above, the impugned orders passed by the trial Court are set aside. The present revision petition is disposed of with a direction to the trial Court to grant one more effective opportunity to the petitioner to cross-examine the witness(es) of the other side.

**21<sup>st</sup> FEBRUARY, 2022**  
*‘sandeep’*

**(RAJBIR SEHRAWAT)**  
**JUDGE**

|                                   |            |           |
|-----------------------------------|------------|-----------|
| <i>Whether speaking/reasoned:</i> | <i>Yes</i> | <i>No</i> |
| <i>Whether Reportable:</i>        | <i>Yes</i> | <i>No</i> |