

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-1537 of 2019 (O&M)
Date of decision: 23.11.2022

Krishan Kumar Vashishta

..Petitioner

Versus

Hemant Kumar Vashishta and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sudhir Aggarwal, Advocate
for the petitioner.

ANIL KSHETARPAL, J(Oral)

The plaintiff in a suit for grant of decree of mandatory injunction and mesne profits, is the petitioner herein. The suit was filed on 15.09.2011. Sh. Hemant Kumar Vashishta (defendant no.1) filed his affidavit in evidence. From the reading of the order, it is evident that the plaintiff and his counsel were avoiding to cross-examine the witness. On 06.12.2018, the parties were directed to remain present along with their learned counsels. When the case was taken up at 10:00 a.m, the counsel representing the plaintiff was not present. Hence, it was notified that the case shall be taken up at 10:30 a.m. At 10:30 a.m. Sh. P.S.Raghav, Advocate, appeared for the plaintiff and prayed for taking up the matter at 11:00 a.m.. Hence, the court accommodated the advocates and the case was again taken up at 11:00 a.m., however, the learned counsel representing the plaintiff did not appear. The case was once again kept to be taken up at

11:30 a.m. Sh. Tilak Raj Arora, Advocate, appeared at 11:30 a.m. and filed a fresh power of attorney and prayed for an adjournment. The Court after noticing that the witness has to travel abroad tonight for an undisclosed period, declined to entertain the request of adjournment. It was noticed that the witness was to travel abroad, for the purpose of treatment of his child, hence the case was kept at 2:00 p.m.

When the case was taken up at 2:00 p.m., the learned counsel representing the plaintiff was present, however, it was stated that the plaintiff is present in another court and the learned counsel cannot cross-examine the witness in the absence of the plaintiff. The court even requested the learned counsel to call the plaintiff, so as to complete the cross-examination of DW1, however, the learned counsel expressed his inability to do as per the court's request.

The Court after noticing the conduct of the learned counsel and the plaintiff, ordered that the opportunity to cross-examine DW1-Sh. Hemant Vashisht will be treated 'NIL'.

Challenging the correctness of the aforesaid order, the revision petition has been filed.

The learned counsel representing the petitioner prays for one opportunity.

It is evident from the detailed order passed by the Court, that the petitioner has himself forced the Court to pass such order. In exercise of the revisional jurisdiction under Article 227 of the Constitution of India, this Court does not find it appropriate to interfere with the order passed by the trial Court.

Hence, dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

November 23, 2022
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(ANIL KSHETARPAL)
JUDGE

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