

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
Sr. No.108

CR-2496-2022
Date of Decision: 06.07.2022

DARSHAN SINGH

...Petitioner

VERSUS

JARNAIL SINGH

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr. Viraj Sharma, Advocate, for
Mr. Siddharth Gupta, Advocate, for the petitioner.

ARCHANA PURI, J.

Present revision petition has been filed for setting aside the order dated 12.05.2022 (Annexure P-1) passed by learned Additional Civil Judge (Senior Division), whereby learned Trial Court, has treated the cross-examination of PW-2, Prem Singh, as nil.

In the suit for recovery, on the basis of the pronote and receipt, witness, Prem Singh, was examined as PW-2. However, his cross-examination was not conducted by the defendant, as none had made appearance on behalf of the defendant and the cross-examination of Prem Singh, was treated as nil.

Now, it is submitted by learned counsel for the petitioner that the case was fixed for recording of evidence of plaintiff, before the Trial Court on 03.08.2019 and since then, the plaintiff had availed several opportunities for recording evidence. It was only on 26.10.2021, both PW-1 and PW-2, were present, and they were examined in chief, and their further examination was deferred. Thereafter, the case was again adjourned further, but however, due to prevalent Covid-19 situation, the case was further adjourned, without any effective proceedings. It was only thereafter PW-2, Prem Singh, was present on 12.05.2022, when the impugned order was passed.

It is submitted that it was only on singular date i.e. on 12.05.2022 that neither the defendant, nor his counsel could make appearance, and the impugned order treating the cross-examination of PW-2, Prem Singh, as nil was ordered.

We all know that due to Covid-19 situation, all the Courts were working under constrained circumstances and even the litigants could not pursue the cases themselves, so there was difficulty in conducting the examination of the witnesses. Seemingly, it appears that there was single lapse, on the part of the defendant on the date fixed, when the impugned order was passed.

Perusal of the impugned order reveals that the case is fixed for remaining evidence of the plaintiff before the Trial Court for today itself i.e. 06.07.2022.

Considering the aforesaid fact situation, without prejudice to the rights of the parties to be adjudicated on merits, the present revision petition is hereby allowed and another opportunity is given to the petitioner to conduct cross-examination of Prem Singh PW-2, when he makes appearance before learned Trial Court.

However, this opportunity is granted to the petitioner, subject to payment of Rs.10,000/- as costs, to be deposited with District Legal Services Authority concerned, within 15 days from today onwards.

(ARCHANA PURI)
JUDGE

06.07.2022
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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No