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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-1995-2021 (O&M)
Date of decision: 17.08.2022

Raj Kumar

... Petitioner

Vs.

Sharanjit Singh Randhawa and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Surinder Gaur, Advocate
for the petitioner.

Mr. Ramandeep Singh, Advocate
for respondent No.1.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this revision petition is for setting aside the order dated 25.08.2021 passed by the Civil Judge (Jr. Divn.), Chandigarh, vide which cross-examination of PW1 Sharanjit Singh was treated as Nil.

While issuing notice of motion, following order was passed by this Court on 20.09.2021: -

“It is inter alia submitted that PW-1, namely, Sharanjit Singh Randhawa tendered his affidavit on 30.01.2020 and the matter was adjourned to 05.03.2020 for his cross-examination. On the said date, a request for adjournment was made on behalf of the petitioner-defendant. The same was granted subject to payment of costs. Thereafter, on account of Covid-19 pandemic, the matter

kept on getting adjourned till 29.01.2021 on which date costs were paid. Learned counsel for the defendant was present, but no prosecution witness was present. Same was the situation on the next date of hearing, i.e. 04.03.2021. The next date of hearing was 19.05.2021, but the matter was taken up on 18.05.2021 on account of administrative orders and was adjourned to 24.08.2021. On 24.08.2021, a request for adjournment was made as learned counsel had to go out of station. Instead, the case was kept pending for the next day i.e. 25.01.2021, on which date the impugned order was passed. Under the circumstances, the order dated 25.08.2021, whereby, cross-examination of PW-1 has been treated to be nil is too harsh.

Notice of motion for 07.12.2021.

Meanwhile, passing of final order shall remain stayed.”

Brief facts of the case are that respondent No.1-plaintiff filed a suit for recovery of Rs.10.00 lacs as compensation, in which he appeared as PW1, however, despite taking three dates, petitioner-defendant No.1 could not cross-examine him, therefore, cross-examination of the plaintiff, at the instance of the defendants, was treated as Nil.

Learned counsel for the petitioner submits that since the case is still at the stage of recording evidence of the plaintiff, one effective opportunity may be granted to complete cross-examination of PW1-plaintiff Sharanjit Singh Randhawa.

Learned counsel for respondent No.1 has, however, opposed the prayer on the ground that despite taking three dates, cross-examination of PW1 was not completed, therefore, it was treated as Nil vide impugned order.

After hearing learned counsel for the parties, I find that in order to enable the trial Court to decide the suit in a just and fair manner, it will be appropriate to grant one effective opportunity to petitioner-defendant to cross-examine PW1/plaintiff Sharanjit Singh Randhawa.

Accordingly, this petition is allowed and the impugned order dated 25.08.2021 passed by the Civil Judge (Jr. Divn.), Chandigarh is set aside.

The trial Court is directed to grant one effective opportunity to the petitioner-defendant to cross-examine plaintiff-PW1 Sharanjit Singh Randhawa, however, subject to payment of costs of Rs.5,000/- to respondent No.1-plaintiff.

Effective opportunity would mean a day, when the Court is held by the Presiding Officer and plaintiff-PW1 Sharanjit Singh Randhawa is present in the Court.

Disposed of, accordingly.

[ARVIND SINGH SANGWAN]
JUDGE

17.08.2022
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No