

121

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRNo.4800 of 2022 (O&M)

Date of decision: 28.10.2022

Rohit Bhardwaj

....Petitioner

Versus

Siddhesh Sharma and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Baljeet Beniwal, Advocate
for the petitioner.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for setting-aside the order dated 07.10.2022 passed in Civil Suit No.815 of 2020, vide which the trial Court has closed the right of defendant *qua* cross-examination of PW-1 and PW-4.

Brief facts of the case are that the respondent/plaintiff has filed a suit for possession by way of specific performance and is pending at stage of plaintiff's evidence.

Counsel for the petitioner has argued that when the case was fixed for plaintiff's evidence on 07.10.2022, at his own responsibility and for cross-examination of PW-1, PW-2 and PW-4. It is further submitted that on that day, i.e. on 07.10.2022, the petitioner/defendant paid the costs regarding the travelling expenses of the witnesses and counsel for the petitioner/defendant could cross-examine only PW-2 Dinesh Kumar, who was present in the Court and sought time for further cross-examination of PW-1 and PW-4. It is also argued that the trial Court, however, declined to grant further

opportunity and closed the right of cross-examination of the petitioner/defendant qua PW-1 and PW-4. It is further contended that though on that day, counsel for the petitioner/defendant was not well and he could cross-examine only one witness i.e. PW-2 and therefore, the trial Court could have adjourned the case subject to payment of costs to allow the petitioner to cross-examine the witness is an important right given to prove the case and in the absence of the same, the right of the petitioner/defendant will be prejudiced.

After hearing the counsel for the petitioner, this Court is of the opinion that at this stage, the issuance of notice of motion can be dispensed in order to avoid further delay in disposal of the main suit by the trial Court as in the eventuality of issuance of notice of motion, this Court will direct the trial Court to adjourn the case.

Accordingly, the present petition is allowed and the impugned order dated 07.10.2022 is set-aside and the trial Court is directed to grant one effective opportunity to cross-examine PW-1 and PW-2 on payment of costs/travelling expenses.

The effective opportunity would mean a date on which both the witnesses i.e. PW-1 and PW-4, are present in the Court.

This will, however, be subject to payment of costs of Rs.3,000/- to be paid to the respondent/plaintiff.

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

28.10.2022

yakub

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No