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

**Civil Revision No.5018 of 2022
Date of decision: 09.11.2022**

PARDEEP KUMAR

..... PETITIONER

VS

JAGDISH CHANDER

..... RESPONDENT

CORAM : HON'BLE MR.JUSTICE ALOK JAIN

Present : Mr. Diwan S. Adlakha, Advocate for the petitioner.

ALOK JAIN, J. (Oral)

The present revision petition has been filed under Article 227 of the Constitution of India praying for setting aside the impugned order dated 30.09.2022 (Annexure P-4), whereby the evidence of the defendant was closed by recording that despite several opportunities, the defendant has failed to conclude his evidence.

Learned counsel for the petitioner submits that only the cross-examination of DW1/Arun Kumar was left and his examination-in-Chief was already done on 12.09.2019. He further submits that subsequent, thereto, DW2/Sanjeev Kumar and DW3/Vikrant were duly examined and cross-examined and although DW1/Arun Kumar was present but his cross examination could not be recorded for want of relevant record. To summarize, the petitioner submits that only the cross-examination of DW1/Arun Kumar Notary Public is to be done and the non cross-examination of the said witness shall cause irreparable loss and injury to the petitioner. He

further submits that the petitioner be granted two effective opportunities for completing the evidence and also submits that he be put to some costs to allow him to cross-examine the said witness, as it 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 with, 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 have to direct the trial Court to adjourn the case.

Accordingly, the present petition is allowed and the impugned order dated 30.09.2022 is set aside and the trial Court is directed to grant two effective opportunities to cross-examination DW1 on payment of costs/travelling expenses. Accordingly, the petitioner is granted two effective opportunities and the first being 30.01.2023 i.e. next date already fixed by the Court below on which the petitioner/defendant will adduce his entire evidence at his own risk and responsibility including presence of the witness. However, just to avoid any further delay in the disposal of the suit one more effective opportunity after 30.01.2023 may be granted, if the Court below assesses the requirement for the same. However, the same is subject to payment of cost of Rs.10,000/- to be paid to the respondent/plaintiff before the trial Court.

(ALOK JAIN)
JUDGE

09.11.2022
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Whether speaking/reasoned Yes/No

Whether Reportable Yes/No