

CR-6101-2022 (O&M) and connected case

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

1. **CR-6101-2022 (O&M)**
Date of Decision: December 22, 2022

Jatinder Kumar Salhan **...Petitioner**

Vs

Harjinder Kaur Salhan and others **... Respondents**

2. **CR-6104-2022 (O&M)**

Jatinder Kumar Salhan **...Petitioner**

Vs

Harjinder Kaur Salhan and others **... Respondents**

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Parvidner Singh, Advocate for the petitioner.

DEEPAK GUPTA, J.(Oral)

This order shall dispose of the aforesaid two revision petitions, involving the same issue.

Petitioner is the plaintiff before the Trial Court. By way of impugned order dated 04.10.2022 (Annexure P-9) his right to cross-examine DW1 and DW2 has been directed to be treated as nil, against which the first revision (CR No.6101 of 2022) has been filed. Petitioner sought review of the said order dated 04.10.2022 but the same has been dismissed by learned Trial Court, vide order dated 15.12.2022 against which second revision (CR No.6104 of 2022) has been filed.

It is contended by learned counsel that learned Trial Court wrongly observed that eight opportunities have been availed by the

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petitioner-plaintiff to cross-examine the witnesses. It is submitted that impugned orders are illegal and perverse as these have gravely prejudiced the case of the petitioner.

On specific query put to learned counsel, he conceded that as many as five opportunities were provided to the petitioner-plaintiff to cross-examine DW1 and DW2, which were not availed by him and adjournment was sought on every time on one or the other pretext.

As it is evident from the various orders placed on file/paper book, DW1 Mangat and DW2 Kulbir Rai appeared on 28.03.2022, on which date their examination-in-chief was recorded and matter was adjourned to 27.04.2022 for the purpose of their cross-examination. One of DW Mangat Rai appeared on 16.08.2022, then on 08.09.2022 but he was not cross-examined. Witnesses again appeared on 20.09.2022 and 04.10.2022 but still were not cross-examined. After noticing the said conduct of the counsel for the plaintiff before the Trial Court, it was directed by the Trial Court by way of impugned order that the right to cross-examine DW1 and DW2 by the plaintiff be treated as nil.

Although, I do not find any illegality in the impugned orders but at the same time, the conduct of a counsel should not prejudice the right of a party. In the interest of justice, one opportunity is provided to the petitioner-plaintiff to conduct cross-examination of DW1 and DW2, subject to payment of cost of ₹10,000/- each to both these witnesses payable by way of a bank draft.

Learned Trial Court is directed to fix a date for the purpose of cross-examination of DW1 and DW2 by ensuring that cost to

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witnesses by the petitioner-plaintiff be paid prior to date when cross-examination of the witnesses is to be conducted.

Both the revision petitions are disposed of accordingly.

This order has been passed without serving notice to the respondents in order to avoid any delay in the matter. However, if the respondents are aggrieved by this order, they can approach this Court.

December 22, 2022

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(DEEPAK GUPTA)

JUDGE

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