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

CR-156-2023 (O&M)

Date of Decision: 15.03.2023

Kailash Bala

....Petitioner

Versus

Naresh Kumar @ Minta and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Jagjit Singh, Advocate
for petitioner.

ARUN MONGA, J. (ORAL)

Petition herein is to set aside order dated 20.10.2022 (Annexure P-6) passed by Ld. Civil Judge (Jr. Division), Jalandhar, whereby in a suit for declaration instituted by respondents No.1 and 2/plaintiffs, application moved by petitioner/defendants No.1 & 2 for cross-examination of plaintiffs' witnesses, was dismissed.

2. Learned counsel for petitioner-defendant, *inter alia*, contends that defendants filed written statement and the case was listed on 18.10.2019 for plaintiffs' evidence, but no PW was present and the case was adjourned for 31.10.2019 for evidence of plaintiffs, but again no PW was present and case was adjourned for 20.11.2019. On the adjourned date, again no PW was present and costs of Rs.500/- were imposed on plaintiffs, to be deposited in DLSA, Jalandhar. Case was again adjourned for 27.11.2019. On the adjourned date, again no PW was present and costs were also not deposited. On 07.01.2020, PW-1 was present, but could not be examined and PW-2 was not present and the Ld. Court summoned PW-2 through bailable warrants in a sum of Rs.5,000/- and case was adjourned for 15.01.2020. On

15.01.2020, Ld. Judge was on leave and case was adjourned for 07.02.2020. On 07.02.2020, no PW was present and case was adjourned for 17.02.2020 for cross-examination of PW-1 as well as for remaining PWs, subject to costs of Rs.1000/-. Bailable warrants of PW-2 were also issued. On 17.02.2020, plaintiffs had not deposited the costs and only PW-1 was present and examined. Case was then adjourned for 25.02.2020 for remaining PWs. Bailable warrants against PW-2 were also issued and case was adjourned for 05.03.2020. On adjourned date, costs were again not paid and no PW was present and bailable warrants of PW-2 were issued. Case was adjourned to 25.03.2020. On 25.03.2020, due to pandemic, no proceedings were initiated.

2.1. Petitioner filed an application for cross-examination of plaintiffs' witnesses on 25.02.2022 as the case was at the stage of plaintiffs' evidence. However, despite bailable warrants issued for PWs and costs imposed, even then plaintiffs neither deposited the costs nor appeared before Ld. trial Court. Ld. trial Court dismissed application (Annexure P-5) for cross-examination of plaintiffs' witnesses filed by petitioner vide order impugned herein.

3. Given the nature of order being passed, there is no necessity to issue notice to the respondents, as no serious prejudice would be caused to them. Notice to respondents herein is thus dispensed with.

4. I have heard learned counsel for petitioner and gone through the case file.

5. Perusal of record reveals that delay, if any, is attributable to respondents No.1 and 2/plaintiffs.

6. Learned counsel for petitioner undertakes to cross-examine plaintiffs' witnesses on or after the next adjourned date subject to their availability.

7. Keeping in view the facts and circumstances of the case, I deem it appropriate to grant one more opportunity to petitioner to cross-examine plaintiffs'

witnesses, subject of course to the discretion of Ld. Trial Court to grant further opportunity depending upon the exigency of work. To that extent, the impugned order is modified and the revision petition is disposed of.

8. Pending civil miscellaneous application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

March 15, 2023
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No