

CR-394-2017 (O&M)

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

Sr. No.110

**CR-394-2017 (O&M)
Date of Decision: 25.05.2023**

SEET KAUR AND OTHERS

...Petitioners

Versus

KULWINDER KAUR AND OTHERS

....Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Anoop Singla, Advocate,
for the petitioners.

Mr. Aakash Singla, Advocate,
for the respondents.

ARCHANA PURI, J. (ORAL)

Challenge in the present revision petition is to the order dated 25.10.2016 passed by learned Lower Court, whereby cross-examination of PW-1, Hardev Singh and PW-2, Jugraj Singh, was treated as '*Nil*' and the impugned order dated 25.10.2016 was passed, thereby making an observation about examination of both the aforesaid witnesses and the case was further adjourned to 23.01.2017, for remaining evidence of the plaintiff, subject to last opportunity.

Copies of the zimini orders have been supplied in the Court today by learned counsel for the respondents and the same are taken on record.

Perusal of the same reveals that examination-in-chief of PW-1, Hardev Singh and PW-2, Jugraj Singh, was recorded on 05.08.2016 and the

CR-394-2017 (O&M)

case was adjourned to 07.09.2016 for cross-examination. However, on the said date i.e. 07.09.2016, no PW was present and the case was adjourned to 27.09.2016. On 27.09.2016, again no PW was present and the case was further adjourned to 25.10.2016, subject to cost to the respondent/plaintiff. However, on 25.10.2016, two PWs i.e. PW-1, Hardev Singh and PW-2, Jugraj Singh, were present and opportunity of cross-examination was treated as nil, even though, the presence of learned counsel for the petitioner has been specifically mentioned therein.

In the given circumstances, opportunity ought to have been given to the petitioners/defendants to conduct the cross-examination and if for certain reason, the petitioners/defendants evaded from conducting of cross-examination, the reason could have been evident from the impugned order, so passed. However, no such reason is spelt out and in the given circumstances, it could not be concluded that the petitioners/defendants were evading from conducting of cross-examination of the witnesses present before learned Lower Court. As such, the impugned order, so passed by learned Lower Court, is erroneous and the same is hereby set aside with opportunity to the petitioners/defendants to conduct cross-examination of PW-1, Hardev Singh and PW-2, Jugraj Singh.

However, at this stage, learned counsel for the respondents/plaintiffs has brought to the notice of the Court that after recording of the examination-in-chief both the witnesses, PW-1, Hardev Singh and PW-2, Jugraj Singh, who were examined with regard to the disputed Will, have since died.

CR-394-2017 (O&M)

In the given circumstances, since the cross-examination, as such, cannot be conducted, learned Lower Court shall provide an opportunity to the respondents/plaintiffs to examine any further witness in lieu of PW-1, Hardev Singh and PW-2, Jugraj Singh.

Accordingly, the instant revision petition stands disposed of.

25.05.2023
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No