

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(242)

CR-8500-2017 (O&M)

Date of Decision : 15.05.2023

Naresh Kumar

...Petitioner

Versus

Lakhwinder Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Amritpal Singh Gill, Advocate for the petitioner.

Mr. Vijay Lath, Advocate for the respondents.

Harsimran Singh Sethi J. (Oral)***CM-26057-CII-2017***

Application is allowed, as prayed for.

CR-8500-2017

1. The present civil revision has been filed challenging the order passed by the trial court dated 18.11.2017 (Annexure P-7) by which the plaintiff has been recalled for the cross-examination, which was deferred on 22.08.2016.

2. Learned counsel for the petitioner submits that though, it is a conceded position that plaintiff-Lakhwinder Singh turned up for the cross-examination and he was also partly cross-examined on 22.08.2016 but further cross-examination of the plaintiff-Lakhwinder Singh was deferred on the ground of production of record, which adjournment though was sought by the petitioner-defendant only but thereafter, the plaintiff-

Lakhwinder Singh himself closed his evidence, after closing of the plaintiff's evidence, the cross-examination of the plaintiff-Lakhwinder Singh could not have been ordered by the trial court.

3. Learned counsel appearing on behalf of the respondents-plaintiffs submits that the evidence of the plaintiff-Lakhwinder Singh was closed inadvertently without realizing that the cross-examination of plaintiff-Lakhwinder Singh was partly done by the defendant and the same was yet to be concluded but inadvertently even the petitioner-defendant could not inform the Court about the said fact. When the plaintiff-Lakhwinder Singh closed his evidence and it was only thereafter that the Court realized the mistake that cross-examination of the plaintiff-Lakhwinder Singh was still not complete, hence, in order to do the complete justice, the order dated 18.11.2017 (Annexure P-7) has been passed for cross-examination of the plaintiff-Lakhwinder Singh.

4. I have heard learned counsel for the parties and have gone through the record with their able assistance.

5. It is a case where, there is a contributory negligence on the part of the parties. The plaintiff-Lakhwinder Singh should have realized that his cross-examination is yet to be completed before his evidence was closed. Similarly, the petitioner-defendant should have been vigilant enough to inform the Court that the cross-examination of the plaintiff-Lakhwinder Singh was only partly done and adjournment sought was by the petitioner-defendant. The Court also did not realize that vide order dated 22.08.2016, the case was adjourned when the cross-examination of the plaintiff-Lakhwinder Singh was deferred and the same is yet to finish.

6. Keeping in view the advertent mistake on the part of all, the trial Court decided to give one opportunity to the plaintiff-Lakhwinder Singh for being cross-examined. The opinion of this Court is only to do justice to the parties so that nobody feels prejudice in any manner, hence, no interference is called for by this Court in the impugned order.

7. It may be noticed that the plaintiff-Lakhwinder Singh should have been vigilant enough to get himself cross-examined before closing the evidence but the said application was filed after a delay of one year. Keeping in view the act on the part of the plaintiff-Lakhwinder Singh, the delay has occurred for which petitioner-defendant needs to be compensated by award of cost. For the said act, the respondents-plaintiffs will pay cost of ₹15,000/- to the petitioner-defendant, which will be paid before the trial Court on the next date of hearing.

8. Petition is allowed in above terms.

CM-17563-CII-2019

As the petition is allowed, the present application stands disposed of.

May 15, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No