

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

264

Civil Revision No.222 of 2021

Date of decision :-09.05.2023

Avtar Singh

.....Petitioner

Versus

Mohinder Singh and others

.....Respondents

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Amandeep Saini, Advocate
for the petitioner.

NIDHI GUPTA J. (Oral)

Prayer in this Revision Petition is for setting aside order dated 10.02.2020 (Annexure P-5) in case No.CS/221/2018, titled as 'Mohinder Singh vs. Amarjit Singh and others', passed by the learned Addl. Civil Judge (Sr. Divn.), Shaheed Bhagat Singh Nagar, vide which the cross examination of witnesses PW1 and PW2 was ordered to be treated as 'Nil'.

2. Learned counsel for the petitioner submits that in the Civil suit, on 29.10.2019 PW-1 Sarbjit Kaur tendered her affidavit in her examination-in chief and cross-examination was deferred. Similarly, on 09.1.2020, PW-2 Resham Singh also tendered his affidavit in his examination-in-chief but cross-examination upon this witness was also deferred and the case was adjourned to 10.02.2020. On 10.02.2020, the counsel concerned could not appear before the Court for conducting cross-examination upon these witnesses for the

reason that the counsel concerned had gone to attend the condolence meeting in a village due to death of mother of some colleague Advocate and this fact was also brought to the notice of learned Trial Court by the proxy counsel. Despite this fact, the learned trial Magistrate has treated the cross-examination upon these witnesses as 'Nil'.

3. Learned counsel for the petitioner submits that the learned trial Court erred in passing the impugned order as no proper and effective opportunity was given to cross-examine PW1 and PW2. After arguing for some time, learned counsel submits that one effective opportunity may be granted to the petitioner herein to cross-examine PW1 and PW2, as grave injustice will be caused to him if he is not permitted to do so.

4. Keeping in view the above facts as canvassed by ld. Counsel for the petitioner, this petition is allowed and impugned order dated 10.02.2020 (Annexure P-5) is set aside. The learned Court below is directed to grant one effective opportunity to the petitioner/defendant to cross-examine the witnesses PW1 and PW2, however subject to payment of Rs.5000/- as costs to the plaintiff-respondent No.1.

5. Disposed of as above.

Pending application, if any, also stands disposed of.

May 09, 2023
Vijay Asija

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes / No
Whether Reportable Yes / No