

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

134

2023:PHHC:149987

CR-2069-2023

Date of decision: 24.11.2023

ARUN KHURMI

..Petitioner

Versus

SANJANA SOOD AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Anil Bansal, Advocate
for the petitioner.

Mr. Jaspreet Singh, Advocate
for respondent No.1.

ANIL KSHETARPAL, J(Oral)

1. On reading of the impugned order, a disturbing pattern being followed in the case has come to the notice of the Court. Despite repeated opportunities, the respondent who is a practicing lawyer has refused to complete the cross-examination of plaintiff.
2. On 14.03.2023, the Presiding Judge of the Court passed as many as three different orders, which read as under:-

*“Present: Ms. Harmeet Kaur, Proxy for the plaintiff.
Defendant in person.*

Plaintiff is present for her cross-examination but defendant has requested an adjournment on the ground that his application under Section 41(h) of SR Act may kindly be decided first. However, no ground is made out to defer the cross-examination of plaintiff. Even on previous date, on request of proxy counsel (as defendant was not available,) cross-examination of plaintiff was deferred and case was adjourned for today for cross-examination of plaintiff, subject to payment of cost of Rs.500/-. Today even cost has not been paid. Faced with this difficulty, defendant requested that he will come around 12:00 Noon again. In view of his request, file be put up on at 12:00 Noon for cross-examination of plaintiff.

*Date of Order: 14.3.2023
Mohit Kumar (Stg-II)*

*(Harsimranjit Singh), PCS
Civil Judge(Senior Division)
Ludhiana
UID Code PB0234*

File again taken up at 12:00 P.M. Plaintiff is present for her cross-examination but despite repeated calls, defendant did not turn up. Rather defendant has sent proxy counsel seeking adjournment which is vehemently opposed. Reply to application under section 41(h) of the Specific Relief Act, 1963 and order 7 rule 11 CPC read with section 9 and 151 CPC filed by plaintiff. Copy supplied. To come up in post lunch session for arguments on aforesaid application as well as cross-examination of plaintiff.

*Date of Order: 14.3.2023 (Harsimranjit Singh), PCS
Mohit Kumar (Stg-II) Civil Judge(Senior Division)
Ludhiana
UID Code PB0234*

File again taken up in post lunch Session. It is 3:30 P.M. Plaintiff is present for her cross-examination & arguments on application U/s 41(h) SRA but despite repeated calls, defendant has not turned up for arguments on application & cross-examination of plaintiff. This court is of the view that no ground is made out to defer the cross-examination of plaintiff. From the enveloping circumstances, it emerges that defendant is deliberately lingering on the matter on flimsy grounds for the reasons best known to him. This procrastination on the part of defendant is totally unacceptable as there is no legal & valid ground for deferring the cross-examination of plaintiff who is regularly appearing in the court for her cross-examination. No fault can be attributed upon her. Rather, callous & recalcitrant approach of defendant is deprecated & uncalled for. As such, cross-examination of plaintiff is ordered to be treated as nil.

No other PW is present or served. On request, case is adjourned to case is adjourned to 27.3.2023 for remaining PWs & consideration on application u/s 41 (h) of SRA.

*Date of Order: 14.3.2023 (Harsimranjit Singh), PCS
Mohit Kumar (Stg-II) Civil Judge(Senior Division)
Ludhiana
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3. After arguing for some time, the learned counsel representing the petitioner prays for permission to withdraw the present petition in order

to file appropriate application before the Presiding Judge apologizing his conduct and praying for an opportunity. If such an application is filed, the Court shall decide the same in accordance with law.

- 4. Ordered accordingly.
- 5. All the pending miscellaneous applications, if any, are also disposed of.

November 24th, 2023 (ANIL KSHETARPAL)
Ay JUDGE

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