

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(115)

CR-2287-2023 (O&M)

Date of Decision : April 19, 2023

Harinder Singh

.. Petitioner

Versus

Bank of India

.. Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Bhavna Kapur, Advocate, for the petitioner.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-6790-C-2023

As prayed for, the application is allowed.

CR-2287-2023

Present petition has been filed for recalling DW-1 for cross-examination, which prayer has been declined by the Court below by the impugned order dated 13.03.2023 (Annexure P-4).

Learned counsel for the petitioner argues that due opportunity needs to be given to the petitioner-defendant to cross-examine DW-1 and the litigants should not suffer because of the conduct of the counsel as in the present case, on the date on which DW-1 was to be cross-examined, the lawyer engaged declined to appear and by the time another counsel was engaged, the order had already been passed by the trial Court treating the

cross-examination of DW-1 as Nil, hence, in order to mitigate the hardship being faced by the petitioner, another opportunity to cross-examine DW-1 may kindly be given for which purpose, the petitioner is also ready to bear the cost of travel of DW-1, who is to come from Gujarat and also cost if any imposed for the delay occurred.

It may be noticed here that the reasons given by the Courts below for declining the prayer in the application prima facie needs no interference by this Court keeping in view the facts and circumstances of the present case but as the lis between the parties needs to be adjudicated on merits as far as possible, the prayer of the petitioner for grant of one more opportunity to cross-examine DW-1 is extended as the same will not cause any prejudice to the respondent.

The said concession of grant of one opportunity to cross-examine DW-1 is being extended keeping in view the request of learned counsel for the petitioner that for the delay caused, the respondent will be compensated and as DW-1 who is to come from Gujarat for the cross-examination, DW-1 will be provided including air fare upto nearest station to Kapurthala.

Keeping in view the fact that the petitioner is ready to bear the travel cost of DW-1 including the air fare upto nearest station to Kapurthala in economy class and also to compensate the respondent-Bank for the delay, one opportunity to cross-examine DW-1 is extended subject to payment of Rs.5,000/- as cost to the respondent-Bank.

Let the date for cross-examination of DW-1 be fixed by the trial Court on the next date of hearing in consultation with the bank authorities

so that DW-1 is in position to travel from Gujarat to Kapurthala. Modality

of payment of cost and travel expenses of DW-1 will also be decided by the trial Court on the next date of hearing.

The present civil revision petition is allowed in above terms.

April 19, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No