

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(113)

CR No. 2487 of 2023

Date of Decision : 26.04.2023

Rakesh Jain

...Petitioner

Versus

Sudesh Jain and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Atul Goyal, Advocate for the petitioner.

Harsimran Singh Sethi J. (Oral)

Present petition has been filed challenging the order dated 27.03.2023 (Annexure P-15) whereby the petitioner-plaintiff's evidence was closed by the court below.

Learned counsel for the petitioner submits that two witnesses i.e. PW2 and PW3 were required to be present on 27.03.2023 but one of the witness i.e. PW3, namely, Jyoti Parkash, could not come for cross-examination and the evidence was closed. Learned counsel submits that only one opportunity be granted for the cross-examination of the said witness as the affidavit in examination-in-chief has already been tendered by PW3 and only the cross-examination is to be done by the other side hence, on the next date of hearing, which is 28.04.2023, the said witness will be present for cross-examination, even if the said opportunity is to be given by imposition of cost so as to compensate the respondents for the delay caused.

I have heard learned counsel for the petitioner and have gone

through the record with his able assistance.

It is a settled principle of law that the dispute between the parties should be decided on merit by giving due opportunity to the parties. Though, effective opportunities have been given to the petitioner but in case, one more opportunity is given subject to the payment of cost so as to compensate the respondents, will suffice the purpose that the dispute between the parties is decided on merits by giving them due opportunity to present their case.

Keeping in view the above, the order dated 27.03.2023 is set-aside. One more opportunity is granted to the petitioner to produce PW3 for cross-examination on the adjourned date i.e. 28.04.2023. Bringing the said witness before the court for the cross-examination will be the duty of the petitioner himself. In case, the said opportunity is not availed on 28.04.2023, no further opportunity will be granted.

It is made clear that grant of said one opportunity to present PW3 for cross-examination will be subject to the payment of Rs. 10,000/- as cost to the respondents so as to compensate them for the delay, which has occurred.

As the present order is being passed without issuing notice to all the concerned, in case the respondents feel prejudice by this order, they will be at liberty to file appropriate application.

Civil revision petition is allowed in above terms.

April 26, 2023

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(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No