

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

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**CR-4330-2023 (O&M)
Decided on : 16.08.2023**

RANJEET SINGH

. . . Petitioner

Versus

DALIP SINGH AND OTHERS

. . . Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Neeraj Madaan, Advocate
for the petitioner.

None for respondents No.2, 3 and 6.

SANJAY VASHISTH, J. (Oral)

1. Present revision petition has been filed by plaintiff No. 1, challenging the order dated 03.07.2023 passed by the Court of Civil Judge (Junior Division), Jalalabad (Ld.Trial Court). In fact, an application moved by the plaintiff No. 1 himself for conducting/completing his cross-examination has been dismissed by the trial Court by observing that despite passing out of a long time, there is an ignorance shown by the witness that is PW 1- Ranjeet Singh himself.

2. Counsel for the petitioner submits that service of notice upon all the respondents has been effected. However, as per the office report, respondent No.1-Dalip Singh has expired and respondents No.2 and 3 are his legal representatives. Thus, they are not required to move a separate application.

3. Mr. Suresh Kumar Aneja, Advocate, puts in appearance on behalf of respondent Nos.4 and 5 and files his power of attorney in Court

today, which is taken on record, subject to all just exceptions. Office to tag the same at appropriate place in case file.

4. Original of the summons issued by this Court as *dasti* is taken on record.
5. Registry is directed to tag the same at the appropriate place on the file.
6. While considering the submissions addressed by the petitioner, on 02.08.2023 following order was passed:

*“Present: Mr. Neeraj Madaan, Advocate
for the petitioner(s).*

1. *Counsel for the petitioner (plaintiff No.1) submits that while considering the discretionary relief, though in the interest of justice, Court has wrongly declined the request for cross-examination of PW1 - Ranjeet Singh. In the concluding paragraph No.6 of the impugned order dated 03.07.2023 (P-7), it has been specifically noticed that on request of the counsel for the defendants, cross-examination of the said witness was deferred, and was bound down for 13.12.2021. Thereafter, on 13.12.2021, Presiding Officer was on leave, and the said witness could not be examined. Factum of period of pandemic COVID-19 is also noticed, which undisputedly prolonged the proceedings in every case for about two years.*

Further submits that the reason for declining the request requires its reconsideration, because a long period of two years was wasted due to COVID-19, therefore, at least, one opportunity should have been granted for cross-examination of said witness.

2. *Court is informed that said witness i.e. PW1 - Ranjeet Singh has tendered his affidavit only for the purpose of examination-in-Chief.*

3. *Notice of motion for 16.08.2023.*

Process dasti only.

Till the next date fixed before this Court, trial Court will not pass final order qua suit.

To be shown in the urgent list.”

7. Today, although there is no representation on behalf of respondents No.2, 3 and 6, yet, counsel appearing on behalf of respondent Nos. 4 and 5 submits that the prayer made by the petitioner is not acceptable at this stage because the suit is fixed for final arguments. Thus, granting any opportunity would amount to delay the proceedings of the suit. In fact, plaintiff No.1-Ranjeet Singh, when appeared as PW-1, tendered his affidavit as Examination-in-Chief, but thereafter, he failed in appearing before the Court by offering himself for cross-examination. His Examination-in-Chief was tendered by plaintiff No. 1- Ranjeet Singh on 15.11.2021, and thereafter, numerous opportunities were availed by the plaintiff for conclusion of their evidence.

8. While opposing the prayer, counsel for the respondents submits that during this period, he could have expressed his willingness of being ready for cross-examination by making an application or making a request before the Court.

9. I have considered the facts and circumstances and the submissions addressed by the both the sides and this Court is of the view that in fact, for granting a single opportunity to the witness, already a long period has been consumed by the Court i.e. almost one year and eight months.

10. It is noticed by this Court that in fact, PW-1-Ranjeet Singh was present on 15.11.2021 and was examined-in-chief. His cross-examination

was deferred on the request of the defendants and witness was bound down for 13.12.2021 for the purpose of cross-examination and the other evidence to be led by the plaintiff.

11. Order dated 10.12.2021 shows that Presiding Officer/Presiding Judge was supposed to be going for leave on 13.12.2021 and therefore, took up the matter on 10.12.2021 by adjourning the same for 12.01.2022.

12. Thereafter, due to pandemic COVID-19 situation, witnesses stopped appearing and the proceedings were stalled before the trial Court.

13. It is a matter of common knowledge to the world that for about two years, no material Court proceedings took place, especially recording of the evidence for the purpose of trials pending before the Courts. Even, vide judgment dated 10.01.2022 **In Re: Cognizance for Extension of Limitation Suo Motu Writ (Civil) No.3 of 2020:2022 LiveLaw (SC) 31**, Hon'ble Apex Court has excluded two years of period from 15.03.2020 till 28.02.2022 for the purpose of calculation of the period of limitation for respective Court proceedings.

14. It is in this situation that the cross-examination of the witness was left unnoticed by everyone, though, it is not disputed that he appeared before the Court for the purpose of appearing as witness and after Examination-in-Chief, only on the request of defendant(s), his cross examination was deferred.

15. Therefore, intention of the plaintiff No.1- Ranjeet Singh, who appeared as PW-1, cannot be doubted, once, he has himself appeared and was ready for his cross examination, as reflected in the order dated 15.11.2021.

16. Considering all the submissions and the factual circumstances

of the case and purely in the interest of justice i.e. purpose of recording of evidence of the respective parties in support of the pleadings, this Court deems it appropriate to grant one opportunity to plaintiff-Ranjeet Singh to produce himself before the trial Court on or before 28.08.2023 as fixed by the trial Court with prior notice to all the concerned. On the said date, it would be open for the defendant(s) to cross-examine the witness Ranjeet Singh (plaintiff No.1), if so, advised.

17. By setting aside the impugned order dated 03.07.2023, **present petition is allowed** and same is disposed of, in the aforementioned terms.

(SANJAY VASHISTH)
JUDGE

August 16, 2023
Lavisha

Whether speaking/reasoned: Yes/~~No~~
Whether Reportable: Yes/~~No~~