

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-5165-2019

Date of decision : 21.02.2023

Mahendra Pal Jain

.....Petitioner

VERSUS

Kusum Lata

....Respondent

CORAM:- HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rajesh Narang, Advocate
for the petitioner.

Mr. Anuj Balian, Advocate
for the respondent.

HARSIMRAN SINGH SETHI, J. (ORAL)

The present petition has been filed challenging the order dated 22.07.2019 (Annexure P-8) by which, the evidence of the petitioner-plaintiff was closed after extending 44 opportunities. Learned counsel for the petitioner submits that though it is a matter of fact, which cannot be denied, that sufficient numbers of opportunities were granted to the petitioner-plaintiff to lead the evidence but keeping in view the facts and circumstances of the present case, one more opportunity may be granted so that the Hand-writing Expert, whose examination-in-chief had already been done, could be produced for the cross-examination as the testimony of the said witness is very material for the proper adjudication of the controversy raised in the suit hence, one opportunity be granted to recall the witness even if the same is to be granted by imposing costs.

Learned counsel for the respondent submits that even if the same is to be done by imposing cost. Learned counsel for the respondent submits that in the present case, 36 last opportunities have been extended to the petitioner-plaintiff to conclude the evidence and that too by imposing cost. He submits that the said witness did not come for cross-examination despite being directed by the trial Court. Learned counsel submits that keeping in view the conduct of the petitioner-plaintiff, the demand of one more opportunity needs to be rejected.

I have heard the learned counsel parties and with their assistance have gone through the records of the case.

Though, it is a matter of record that ample number of opportunities had already been granted to the petitioner-plaintiff to lead the evidence. But in the present case, the question is that once a prosecution witness has appeared and tendered the affidavit in examination-in-chief and the case was adjourned on the prayer of the defendant to cross-examine the said prosecution witness on any other date after which, the said witness did not appear despite being bound down by the Court, one opportunity needs to be extended to the petitioner-plaintiff to recall the said witness for cross-examination. The defendants can be compensated by way of cost, as the witness sought to be produced has already appeared in the examination-in-chief and only cross-examination of the said witness is to be done. Hence, the present civil revision is allowed and the impugned order dated 22.07.2019 (Annexure P-8) is set aside.

Learned trial Court is directed to grant one more opportunity to the petitioner to produce the PW-4 namely, Dr. Jassi Anand for cross-

examination. The said witness be summoned by the trial Court as per the due process of law and the presence of the said witness be ensured by passing appropriate order.

However, as the act on the part of the petitioner-plaintiff had delayed the proceedings, one opportunity being granted by this Court by way of present order to conclude the evidence, the same will be subject to the cost of Rs.10,000/- to be paid to the respondent-defendant.

The present revision petition stands disposed of accordingly.

(HARSIMRAN SINGH SETHI)
JUDGE

21.02.2023

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Whether speaking/reasoned	Yes
Whether reportable	No