

119

2023:PHHC:140529

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CR-6470-2023

Date of Decision: 02.11.2023

SONIA OBEROI

..... PETITIONER

VS

OSWAL PREMIUM SYNTHETIC PRIVATE LIMITED & OTHERS

..... RESPONDENT

**CORAM: HON'BLE MR. JUSTICE GURBIR SINGH**

Present : Mr. Rahul Sharma-1, Advocate for the petitioner.

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**GURBIR SINGH, J. (ORAL)**

This petition is filed under Article 227 of Constitution of India praying for setting aside the impugned order dated 11.08.2023 (Annexure P-32) passed by learned Civil Judge (Junior Division) Sub Division Bilaspur in CS/489/2018 whereby cross-examination of witnesses has been recorded as Nil.

Learned counsel for the petitioner-defendant No.2 has submitted that there was no fault on their part. The petitioner cross-examined almost all the witnesses. The examination-in-chief of PW-6 and PW-7 was recorded on 05.03.2020 and thereafter, the case was adjourned for their cross-examination, however, the same could not be conducted due to Covid-19 Pandemic. In the impugned order, it is wrongly held that sufficient opportunities were granted, in fact on 05.03.2020, only five witnesses were cross-examined and cross-examination of PW-6 and PW-7 was deferred on

the request of learned counsel for the plaintiff/respondent. Thereafter, witnesses were present on 21.04.2022 and the case was adjourned subject to payment of costs, which was paid on the next date i.e. 21.07.2022 and on that day, an application for amendment of written statement was moved. The same was allowed on 23.01.2023. Thereafter, replication was filed on 19.05.2023 and on that day, last opportunity was granted to the petitioner to produce the evidence but although witnesses were present but counsel for the petitioner was away, so cross-examination could not be conducted. There was no fault on the part of the petitioner and she should not suffer due to non-appearance of counsel to cross-examine the witnesses.

It is further submitted that if only one opportunity is granted to the petitioner to cross-examine the witnesses PW-6 and PW-7, then cross-examination will be conducted on the same very date without any excuse on the part of the petitioner.

I have heard submissions of the learned counsel for the petitioner and have also perused the interim orders.

Although there is also some inaction on the part of learned counsel for the petitioner but party should not suffer due to any fault on the part of his counsel. If one opportunity for cross-examination of said witnesses is granted, no prejudice would be caused to the respondents-plaintiffs, which can be compensated with costs.

Notice in the case is not being issued to the respondents as it may linger the matter and would also put financial burden on them.

So, in the interest of justice, one opportunity is granted to the petitioner to cross-examine the witnesses PW-6 and PW-7 subject to

payment of Rs.10,000/- as costs which is condition precedent for the purpose of cross-examination.

Petition stands disposed of.

If respondents are not satisfied with this order, then they can challenge the order within 30 days.

**(GURBIR SINGH)**  
**JUDGE**

**02.11.2023**

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