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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Civil Revision No. 6224-2022
Date of decision 04.01.2023

Kulwinder Singh Multani*Petitioner*
versus
Balwinder Singh and others*Respondents*

Coram: Hon'ble Mr. Justice Rajbir Sehrawat

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Present: Mr. Sahil Gupta, Advocate for
Mr. Simar Pal Singh, Advocate
for the petitioner

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Rajbir Sehrawat, J. (Oral)
CM-18519-CII – 2022

Allowed as prayed for.

Main case

The present revision petition has been filed by the petitioner, assailing the order dated 03.12.2022 (Annexure P-1), passed by the Civil Judge (Senior Division), Kapurthala, vide which, cross examination by the petitioner has been treated as nil.

Counsel for the petitioner has submitted that the petitioner has wrongly been denied the opportunity to cross examine PW1 - Balwinder Singh, PW2 - Tirlok Singh and PW3 - Jaspal Singh, on the ground that counsel for defendant No. 1/petitioner could not reach the concerned Court for cross examination within about two hours. Counsel for the petitioner

has further submitted that the reasons for non-appearance of the counsel were duly disclosed to the Court by filing an application immediately after the impugned order was passed by the Court. However, the said application was also declined by the trial Court. Counsel for the petitioner has submitted that the petitioner needs only one effective opportunity to cross examine the concerned witnesses. The petitioner is main and the contesting defendant in the suit for recovery of Rs.52,44,274 and if the opportunity to cross examine the concerned witnesses is not granted to the petitioner, then his case would be prejudiced beyond redemption.

In view of the facts and nature of the order being passed, this Court does not think it necessary to issue notice to the opposite side, at this stage.

Perusal of the case file shows that the petitioner is the main and contesting defendant in the suit for recovery of Rs.52,44,274/-. Therefore, if the petitioner is denied the opportunity to cross examine the relevant witnesses; then his case is bound to be prejudiced. Rather, it amounts to denial of substantial justice to the petitioner. Rules of procedure are handmade to advance interest of substantial justice and not to thwart or obstruct the same. Although in the present case, counsel representing petitioner before the Court below had not been so vigilant for cross examining the relevant witnesses on the date fixed, yet, in order to advance substantial justice to the petitioner, it would not be unjustified if one effective opportunity to cross examine PW1 to PW3 is granted to the petitioner; but by putting him under an appropriate financial burden.

In view of the above, the impugned order dated 03.12.2022

passed by the Civil Judge (Senior Division) Kapurthala (Annexure P-1) is set aside and the trial Court is directed to grant one effective opportunity to the petitioner to cross examine PW1 - Balwinder Singh, PW2 - Tirlok Singh and PW3 - Jaspal Singh, subject to payment of Rs.15,000/- as costs, to be deposited with the Institute for Blind, Sector 26, Chandigarh; within a period of fifteen days from today.

It is, however, clarified that the trial Court shall grant the said opportunity to the petitioner only on production of receipt of the costs having been deposited, as ordered above.

(Rajbir Sehrawat)
Judge

January 04, 2023
mohan bimbura

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No