

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

**Civil Revision No. 7172 of 2023(O&M)
Date of Decision: 30.11.2023**

Preet @ Kanwalpreet Singh

...Petitioner

Versus

Arun Kumar Arora & Ors.

...Respondents

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. R.S. Bajaj, Advocate
For the petitioner.**

KARAMJIT SINGH, J.

1. This civil revision petition is filed by petitioner/ defendant No.6 against the order dated 11.04.2018 (Annexure P-3) and another order dated 08.09.2022 (Annexure P-6) passed by the Court of Civil Judge (Jr. Divn.), Jalandhar in CS-56298 of 2013 whereby the cross examination of plaintiff Arun Kumar on behalf of the petitioner was treated as 'Nil' and further the application filed by the petitioner on 07.05.2018 for recalling of aforesaid order (Annexure P-3) was also dismissed, respectively.

2. The brief facts of the case are that respondent No.1 Arun Kumar Arora filed suit for permanent injunction against petitioner and other respondents and the same is being contested by the defendants, including the petitioner. The trial Court settled the issues and then case was fixed for evidence of respondent No.1 and consequently respondent No.1 appeared in the witness box as his own witness and his examination-in-chief was recorded and cross-examination was deferred. On 11.04.2018 respondent

No.1 tendered himself for his cross-examination and the case was called

twice but none appeared on behalf of the petitioner and resultantly cross-examination of respondent No.1 was treated as NIL vide impugned order (Annexure P-3). The petitioner filed application on 07.05.2018 seeking recall of the aforesaid order (Annexure P-3) with permission to cross-examine respondent No.1. However, the said application was dismissed by the learned trial Court vide order dated 08.09.2022 (Annexure P-6).

3. The petitioner being aggrieved by aforesaid orders has filed the present petition.

4. The counsel for the petitioner, *inter alia*, submits that there was no intention on the part of the petitioner to delay the proceedings in the suit and on 11.04.2018 oral request was made for adjournment as the counsel for the petitioner was in some personal difficulty, but the said request was not considered and the Court below in an hasty manner passed the impugned order (Annexure P-3). That subsequently on 07.05.2018 an application was filed in the learned trial Court for recall of order (Annexure P-3) but even the said request was also declined vide order (Annexure P-6). The counsel for the petitioner further submits that with the passing of the impugned orders, the rights of the petitioner are gravely prejudiced. So, prayer is made that one opportunity be granted to the petitioner to cross-examine plaintiff Arun Kumar Arora.

5. I have considered the submissions made by counsel for the petitioner.

6. The Court under Section 151 CPC is having inherent powers to do substantive justice. The rules of procedure are to help the Court in delivery of justice. Truth can only be unearthed if parties are permitted to lead proper evidence and opportunity is also given to the other party to cross-examine the witnesses examined by the opponent in order to check their

veracity and for proper decision of the case. In case the petitioner is not allowed to cross-examine respondent No.1, it will prejudice the rights of the petitioner. In my considered opinion the petitioner deserves to be given one last opportunity to cross-examine respondent No.1 but the same will be subject to payment of cost. This will advance the cause of justice and also help the Court to render substantial justice to the parties.

7. Resultantly, without going into the merits of the case, the instant petition is allowed and impugned orders dated 11.04.2018 and 08.09.2022 (Annexures P-3 and P-6 respectively) are set aside subject to payment of costs of Rs. 10,000/- which is to be paid by the petitioner to the opposite party on the next date of hearing. The trial Court shall give one effective opportunity to the petitioner to cross-examine respondent No.1 and for that purpose a specific date has to be fixed by the trial Court.

8. Keeping in view the nature of order being passed, no notice is required to be issued to the respondents. However, if they feel dis-satisfied with this order, they may move an application to recall the same.

(KARAMJIT SINGH)
JUDGE

30.11.2023
Jiten

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