

Avtar Singh

...Petitioner

Versus

Gurinder Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH**Present:** Mr. Aakash Singla, Advocate and
Mr. Saransh, Advocate
for the petitioner.***** (Through video conference)****GURBIR SINGH, J. (ORAL)**

1. On the request of the learned counsel for the petitioner, matter is taken up through video conference.
2. The present revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 21.09.2023 passed by the Ld. Additional Civil Judge (Sr. Division), Patiala whereby evidence of the petitioner/plaintiff has been closed by order.
3. Learned counsel for the petitioner submits that the petitioner was under impression that his SPA/PW5 has been fully cross-examined but after the closure of the evidence, the petitioner was preparing for cross-examination of the witnesses of defendant, then he came to know that further cross-examination of PW5 was deferred on 02.03.2023 (Annexure P-2). He further submits that he would be satisfied if one opportunity is granted to the petitioner to produce the said SPA/PW5 for the purpose of further cross-examination. The case is fixed for 04.01.2024 before the learned trial Court.
4. Keeping in view the fact that petitioner was not to gain anything by withholding SPA/PW5 from cross-examination. The petitioner has already

examined 6 other witnesses and thereafter the concerned Court has also not taken note of the fact that further cross-examination of PW5 was deferred and his presence was required to be proved. So by further cross-examination of this witness, no prejudice would be caused to the other party.

5. If notice is given to the other side it may further delay the disposal of case and may further put financial burden upon respondent.

6. Without commenting upon the merits of the case and in the interest of justice, order dated 21.09.2023 passed by the Ld. Additional Civil Judge (Sr. Division), Patiala is hereby set aside and this petition is disposed of with a direction to the concerned Court to give one opportunity to the petitioner to produce the said witness at own responsibility subject to payment of costs of Rs.5000/- to be paid to the opposite party. The said witness i.e. PW5 shall appear in the Court on 04.01.2024 and shall be cross-examined on the same date or any other date to be fixed by the learned trial Court within a period of 15 days thereafter. No further opportunity shall be granted.

7. If the respondent is not satisfied with this order, he can move an application for recalling of this order within 30 days.

8. Petition stands disposed of.

20.12.2023

Parveen kumar

**(GURBIR SINGH)
JUDGE**

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