



120

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

CR-5803-2024

Date of decision: 04.10.2024

Sajjan Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Anil Kumar Ahuja, Advocate for the petitioner.

Mr. P.S. Bhandari, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 08.07.2024 (Annexure P-5) vide which an application filed by the petitioner for an adjournment was rejected. Challenge has also been made to the order dated 09.07.2024 (Annexure P-6) vide which the petitioner/plaintiff's right to cross-examination of DW1 has been treated as nil. Further challenge has been made to the order dated 02.09.2024 (Annexure P-13) passed by the trial Court vide which an application filed under Section 151 CPC for recalling of the abovesaid orders has also been dismissed.

2. Learned counsel for the petitioner has submitted that the petitioner who is Driver in the respondent-State had filed a civil suit on 04.08.2010 for permanent injunction restraining the respondents-defendants for effecting any recovery from his salary on account of alleged excess consumption of petrol and the said suit was dismissed in default vide order



dated 19.02.2014 and the petitioner had moved an application under Order 9 Rule 8 CPC on 12.04.2014 which was dismissed by the trial Court on 24.01.2018 and thereafter, the petitioner had filed an appeal which was allowed by the First Appellate Court on 24.01.2024 and the case was listed on 15.02.2024 before the trial Court. Thereafter, on 28.02.2024, the matter was adjourned to 11.03.2024 for the evidence of the plaintiff and the plaintiff/petitioner led his entire evidence and closed his evidence on 17.05.2024. It is submitted that on the said date, the case was adjourned to 23.05.2024 for the evidence of the defendants. It is also submitted that DW1-Rajni Khattar had appeared on 23.05.2024 and for her cross-examination, the matter was adjourned to 05.07.2024 and on 05.07.2024, the matter was adjourned to 08.07.2024 on which date the petitioner had moved an application for an adjournment and had made a prayer that the matter be adjourned beyond 30.07.2024 which application was rejected and accordingly the cross-examination of DW1-Rajni Khattar was treated to be 'NIL' by virtue of the impugned order.

3. It is submitted that although, inconvenience has been caused to the said DW1 on account of her medical condition but in case the petitioner is not permitted to cross-examine the said witness then same would cause irreparable loss to the petitioner. It is further submitted that one opportunity be granted to the petitioner to cross-examine the said DW1 and the petitioner undertakes that he would complete cross-examination on the date the said DW1 is produced before the Court. It is submitted that next date of hearing in the present case before the trial Court is 07.10.2024. It is further submitted that for the inconvenience caused to said DW1, the petitioner is ready to adequately



compensate her.

4. On account of ill health of DW1-Rajni Khattar, this Court had put it to the State Counsel as to what would be the convenient date for DW1- Rajni Khattar to appear for the purpose of cross-examination and learned State Counsel has got instructions that the said DW1 can appear between 14.10.2024 to 24.10.2024.

5. Keeping in view the abovesaid facts and circumstances, this Court is of the opinion that one last opportunity be granted to the petitioner to cross-examine DW1-Rajni Khattar and in view of the same, the present revision petition is partly allowed and impugned orders dated 09.07.2024 as well as 02.09.2024 to the effect that the cross-examination of the said DW1 has been treated to be 'NIL' are set aside and the petitioner is granted one last opportunity to cross-examine the said DW1. The trial Court is requested to summon the said witness on a date between 14.10.2024 to 24.10.2024 and is also requested to give a date between the said dates for the purpose of her cross-examination. On the date when the said DW1 appears, only one opportunity would be granted to the petitioner to cross-examine the said DW1 and in case the counsel for the petitioner before the trial Court does not cross-examine the said DW1 on the said date when DW1 appears, the said counsel would not be granted any further opportunity to cross-examine DW1. Same would also be subject to the petitioner depositing a sum of Rs.10,000/- on 07.10.2024 which would be released by the trial Court to the said DW1 for the inconvenience caused to her.

04.10.2024

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No