



CR-7289-2024

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

(120)

CR-7289-2024

Date of Decision: - 13.12.2024

Jagbir Singh @ Jagveer Singh**....Petitioner****Versus****M/s Mark Exhaust Systems Limited and others****.....Respondents****CORAM : HON'BLE MR. JUSTICE VIKAS BAHL**

Present:- Ms. Nandita Aggarwal, Advocate, for the petitioner.

VIKAS BAHL, J. (ORAL)

1. Present revision petition has been filed under Article 227 of the Constitution of India for quashing of the impugned order dated 06.11.2024 (Annexure P-1) passed by the Civil Judge (Junior Division), Gurugram whereby the cross-examination of witness PW1 has been considered to be 'Nil'.

2. Learned counsel for the petitioner has vehemently argued that in the present case, although the suit is of the year 2017 but the issues were framed on 20.02.2023 and the case was fixed for evidence of the plaintiff on 31.05.2023. It is submitted that on 31.05.2023, no witness of the plaintiff was present and even on the next date i.e. 12.09.2023 no PW was present. It is pointed out that even on 20.11.2023, 09.02.2024, 09.05.2024 and 20.07.2024, no plaintiff witness was present and on 20.07.2024 even a cost of Rs.1000/- was imposed upon the plaintiff. It is

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stated that it is only on 14.08.2024 that one witness of the plaintiff i.e. PW-1 was present and his examination-in-chief was recorded and the case was adjourned to 06.11.2024 for cross-examination of PW-1 as well as for consideration of application under Order 1 Rule 10 CPC. It is argued that on 06.11.2024, since counsel for the present petitioner/defendant No.2 who had been regularly appearing before the Court was in personal difficulty and thus, an adjournment was sought but the trial Court vide impugned order dated 06.11.2024 refused to grant the said adjournment and treated the cross-examination of PW1 as 'Nil' and the case was adjourned to 20.01.2025 for remaining plaintiff evidence as well as for arguments on application Order 1 Rule 10 CPC. It is submitted that the petitioner has subsequently even changed the counsel and is being represented by a new counsel and has submitted that the petitioner would suffer irreparable loss in case he is not granted opportunity to cross-examine PW-1. It is further stated that the petitioner undertakes to cross-examine the said PW-1 on the date when he is produced for the evidence and for the inconvenience caused to PW-1, the petitioner is ready to compensate the said PW-1.

3. Keeping in view the above-said facts and circumstances, this Court is of the opinion that the petitioner should be granted one opportunity to cross-examine PW-1 and accordingly, the present revision petition is partly allowed and the impugned order dated 06.11.2024 is set aside to the extent that the right of the petitioner/defendant No.2 to cross-examine the PW-1 has been treated as 'Nil', with the following

directions:-

- (i) Petitioner would move an application before the trial Court bringing to the notice of the trial Court the present order, within a period of 10 days from today and would deposit an amount of Rs.10,000/- alongwith the said application.
- (ii) On depositing the said amount, the trial Court thereafter will summon the PW-1 to appear on a convenient date and on the date the said PW-1 appears, the petitioner would be granted one opportunity to cross-examine him.
- (iii) It is made clear that in case the petitioner does not cross-examine the said PW-1 on the date when the said PW-1 is present, then, no further opportunity would be granted to the petitioner to cross-examine the said PW-1. The trial Court would release the amount of Rs.10,000/- to the said PW-1.

4. It is made clear that in case, the petitioner does not deposit the cost of Rs.10,000/- within a period of 10 days from today, then, the present revision petition would be deemed to have been dismissed.

5. It would be relevant to mention that notice of motion has not been issued to respondent No.1 as issuance of any notice would further delay the proceedings in the suit and would also entail expenses for respondent No.1 in order to defend the present petition. However, it would be open to respondent No.1 to move an application for recalling the present order in case, any statement made before this Court is found to be false/incorrect.

December 13, 2024
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No