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

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**CR-168-2025 (O&M)
Date of decision:14.01.2025**

Hardev Singh & another

... Petitioners

Vs.

M/s R.N. Kapoor Textiles Pvt. Ltd. & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. Vaibhav Sehgal, Advocate for the petitioners.

...

SUKHVINDER KAUR, J.

1. Instant revision petition has been filed by the petitioners/ plaintiffs for setting aside the order dated 20.11.2024 (Annexure P-7) passed by Civil Judge (Sr. Division), Ludhiana, vide which application filed by the petitioner for recalling PW-15, namely, Paramjit Kaur for cross-examination has been dismissed.

2. Brief facts required for adjudication of the present revision petition are that the plaintiff/petitioner, who is running a business of car repairs, is owner in possession of property measuring 94 sq. yards bearing No.B-XXIV-1880/1A, Daulat Colony, Jalandhar Bypass, G.T. Road, Ludhiana. For running his business of car repairs, he has taken nearby property on rent from Tarsem Lal Jain. It is alleged that plaintiff/petitioner filed civil suit for recovery of tentative amount of Rs.2 crores as damages against the defendants on the ground that the entire house of the plaintiff was burnt on account of a fire incident, which took place in the factory premises



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of the defendants during the process of shifting heavy machines in the factory premises. Since the machines were extremely heavy and the building was having loose wirings, the machines got entangled in the electric wiring inside the factory premises and a huge blast took place inside the factory premises due to which the house of the plaintiff/petitioner also caught fire and damaged the material lying therein. Criminal complaint was also filed and in the said criminal complaint, learned trial Court has summoned defendants No.2 to 5 under Sections 436/285/287 IPC.

3. Plaintiff led voluminous evidence to prove the fact of fire and also the extent of damages. Plaintiff tendered affidavit dated 23.08.2023 of his wife, namely, Paramjit Kaur in examination-in-chief and affidavits of PW13, PW14, PW15 and PW17 were also tendered. On 21.08.2024, learned counsel for the plaintiff closed his evidence in affirmative after examining PW-20 Ritesh, Deputy Manager. Inadvertently, counsel for plaintiff was under the impression that cross-examination of PW15 is already complete. Thereafter on 23.09.2024, plaintiff moved an application seeking recalling of PW15 when it came to his notice that cross-examination of PW15 was yet to be started, to which defendants filed reply. Vide the impugned order dated 20.11.2024, learned trial Court dismissed the said application. Hence, aggrieved against the said order, the revision petitioner/plaintiff has knocked the doors of this Court by way of the filing the present revision petition.

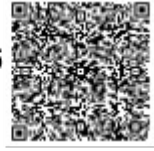
4. Learned counsel for the petitioner has contended that learned trial Court has gravely erred in passing the impugned order and the approach of learned trial Court is extremely hyper-technical. He has further contended

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that learned trial Court has remained totally oblivious of the fact that evidence of the petitioner/plaintiff was closed by the counsel representing him inadvertently and without being aware of the fact that cross-examination of PW15 has not even started. He argued that learned counsel for the plaintiff closed his evidence on 21.08.2024 inadvertently and thereafter on 23.09.2024 without any delay, he filed an application seeking recalling of PW15. On the said date, PW-15 Paramjit Kaur was also present before the trial Court but despite that learned trial Court dismissed the application filed by the plaintiff seeking recalling of PW15 on the ground that allowing the said application would cause serious prejudice to the opposite party. He submitted that it is a settled principle of law that evidence, which is relevant must be permitted to be brought on record and should not disallowed only on account of technicalities. He has urged that house of the plaintiff has been totally burnt and PW15 was the eye witness to the said incident and her testimony is very material for the purpose of proving his case. Therefore, he prayed that one opportunity may be provided to the petitioner for cross-examination of PW15 Paramjit Kaur.

5. I have heard learned counsel for the petitioner at length and have perused the pleadings on record.

6. Perusal of the impugned order reveals that the plaintiff has availed numerous opportunities to lead his evidence. While dismissing the application for recalling, the trial Court has observed that allowing the application would cause serious prejudice to the opposite party who is facing trial since long and it would further linger on the case. The applicant is not



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vigilant towards his case which shows his lackadaisical approach and it further goes on to show that he intends to linger on the trial.

7. It appears that as plaintiff got examined about twenty witnesses so inadvertently it escaped his notice that cross-examination of PW15 was yet to be conducted. PW15 is alleged to be a material witness of the plaintiff who allegedly witnessed the incident. So if her cross-examination is not conducted then her examination-in-chief would not be read into evidence and it would adversely effect the case of the plaintiff. So it would be appropriate and shall be in the interest of justice if one effective opportunity is afforded to the petitioner for conducting cross-examination of PW15 Paramjit Kaur. The delay on the part of the petitioner in getting conducted the cross-examination of PW15 Paramjit Kaur can be compensated by way of imposing costs.

8. Keeping in view the above, the impugned order is set aside, subject to payment of costs of Rs.10,000/- to be paid to the respondents. The trial Court will grant one effective opportunity to the petitioner for conducting cross-examination of PW15 Paramjit Kaur, subject to payment of costs of Rs.10,000/- to be paid to the respondents.

9. Revision petition is allowed in the aforesaid terms.

10. Pending application(s), if any, shall also stand disposed of.

**(SUKHVINDER KAUR)
JUDGE**

14.01.2025

harjeet

1. Whether speaking/reasoned?

Yes/No

2. Whether reportable?

Yes/No