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

(123)

CR-313-2025

Date of Decision: - 20.01.2025

Ram Rattan and others

....Petitioners

Versus

Pushpa Devi

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Apanjyot Singh Virk, Advocate,
for the petitioners.

VIKAS BAHL, J. (ORAL)

1. Present revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 13.11.2024 (Annexure P-1) passed by the Civil Judge (Jr. Division), SAS Nagar, Mohali in Civil Suit No.CS-351-2020, vide which the cross-examination of PW1 (respondent) and PW3 is treated to be 'Nil'.

2. Learned counsel for the petitioners has submitted that in the present case, the issues were framed on 13.02.2024 and thereafter, the case was adjourned to 22.03.2024, on which date, no witness of the plaintiff was present and on 26.04.2024 also no witness of the plaintiff was present and even on 15.05.2024, no witness of the plaintiff was present. It is further submitted that on 24.07.2024, since no witness of the plaintiff was present, thus, the matter was adjourned for evidence of the



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plaintiff/respondent subject to last opportunity and subject to cost of Rs.500/- and thereafter, on 09.08.2024, it was recorded that the cost was not paid and PW-1 Pushpa Devi was present but had requested for an adjournment on the ground that she was not feeling well. It is submitted that thereafter, the counsel for the petitioners did not conduct the proceedings in the best manner in favour of the present petitioners and after the passing of the impugned order the petitioners even withdrew their power of attorney and engaged a new counsel. It is further submitted that although, the said PW-1 Pushpa Devi had been partly cross-examined on 11.09.2024 but by virtue of the impugned order, the cross-examination of PW-1 and PW-3 has been treated as 'Nil'. It is submitted that in case, the petitioners are not permitted to cross-examine the said PW-1 Pushpa Devi, then, irreparable loss would be caused to them. It is fairly submitted that since PW-3 Gurcharan Singh is a summoned witness, thus, the petitioners would limit their prayer for cross-examination of PW-1 Pushpa Devi and for the said purpose, the petitioners are ready to compensate the said PW-1 Pushpa Devi. It is also submitted that the case is now listed for 27.01.2025 for the evidence of the defendants.

3. Keeping in view the above-said facts and circumstances, this Court is of the opinion that the petitioners should be granted one opportunity to cross-examine the said PW-1 Pushpa Devi and accordingly, the present revision petition is partly allowed and the impugned order dated 13.11.2024 is set aside and the petitioners are granted one last opportunity to cross-examine the said PW-1 Pushpa Devi



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and the same would be subject to the cost of Rs.40,000/-, to be deposited by the petitioners before the trial Court on or before 27.01.2025 and in case of their doing so, the trial Court would release the same to the said PW-1 Pushpa Devi (respondent-plaintiff).

4. It is made clear that in case the said cost of Rs.40,000/- is not deposited by the petitioners on or before 27.01.2025, then, the present revision petition would be deemed to have been dismissed. In case of the present petitioners depositing the said amount, the trial Court would fix a date for recalling the said PW-1 and the petitioners would be given one effective opportunity to cross-examine the said PW-1.

5. It is also made clear that in case the petitioners' counsel does not cross-examine the said PW-1 on the date when she appears, then, no further opportunity would be granted.

6. It would be relevant to mention that notice of motion has not been issued to the respondent as issuance of any notice would further delay the proceedings in the suit and would also entail expenses for respondent in order to defend the present petition. However, it would be open to respondent to move an application for recalling the present order in case, any statement made before this Court is found to be false/incorrect.

(VIKAS BAHL)
JUDGE

January 20, 2025
naresh.k

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No