



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

CR-1630-2025 (O&M)

Date of Decision : 28.03.2025

Harsh Kumar

... Petitioner(s)

Versus

Sukhbir Singh

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Namit Gautam, Advocate for the petitioner.

Mr. Ranjit S. Bajaj, Advocate for the respondent.

ALKA SARIN, J. (Oral)

1. The present revision petition has been filed by the plaintiff-petitioner under Article 227 of the Constitution of India challenging the order dated 03.10.2024 whereby the cross-examination of DW1 has been ordered to be treated as 'Nil' and the order dated 14.01.2025 whereby the application for recalling of the order dated 03.10.2024 was dismissed.

2. Learned counsel for the plaintiff-petitioner would contend that the plaintiff-petitioner had suffered a paralytic attack on 19.07.2024 and was admitted in hospital from 19.07.2024 to 23.07.2024 and therefore the cross-examination of DW1 (respondent herein) could not be conducted. It is further the contention of the learned counsel that given one effective opportunity, the plaintiff-petitioner would cross-examine DW1.

3. *Per contra* the learned counsel for the respondent has pointed out that though the reason for not cross-examining the witness on 03.10.2024 was that the plaintiff-petitioner was admitted in hospital from 19.07.2024 to 23.07.2024, however, on 06.09.2024 the said witness - DW1 –

was partially cross-examined and hence the reason given for not conducting the further cross-examination on 03.10.2024 cannot be accepted.

4. I have heard the learned counsel for the parties.

5. In the present case, no doubt various opportunities were given to cross-examine the witness, DW1, however, the petitioner failed to conclude the cross-examination. The witness - DW1 - was present on 12.02.2024, 22.03.2024 and 06.09.2024. The impugned order dated 03.10.2024 reveals that despite the witness - DW1 - being present on three dates, the counsel for the plaintiff-petitioner requested for an adjournment for cross-examination of the witness and failed to conclude the cross-examination of DW1 and as such his cross-examination was recorded as 'Nil'. It is an admitted case that the said witness - DW1 - was partially cross-examined and hence his cross-examination could not have been treated as 'Nil'. The witness stood partially cross-examined and there is no reason to write-off that part of the cross-examination. Though the learned counsel for the plaintiff-petitioner has tried to make out a case that due to the illness of the plaintiff-petitioner the cross-examination of DW1 could not be carried out, however, the said reason does not appeal to the conscience of the Court inasmuch as on 06.09.2024 the same witness - DW1 - was partially cross-examined. However, since it is a suit for recovery and in order to do complete justice between the parties, this Court deems it appropriate to grant one effective opportunity to the plaintiff-petitioner to cross-examine DW1 and to complete his cross-examination, subject to payment of ₹30,000/- as costs to be paid to the respondent which shall be a condition precedent. The Trial Court is further requested not to grant any unnecessary adjournments to

either of the parties. Accordingly, the orders dated 03.10.2024 and 14.01.2025 are set aside. The present revision is allowed. Pending applications, if any, also stand disposed off.

6. It is made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case and in case the costs are not paid, the present revision petition shall be deemed to having been dismissed.

28.03.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO