



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

208

CR-7516-2023(O&M)
Date of decision: 29.07.2025

PUNJAB AGRICULTURAL UNIVERSITY LUDHIANA

....Petitioner

Versus

BOROSIL GLASS WORKS LIMITED AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Ms. Shubreet Kaur, Advocate for
Mr. G.B.S. Naagar, Advocate
for the petitioner.

Mr. Rajat Malhotra, Advocate (through VC)
for respondent No.1.

VIKAS BAHL, J. (ORAL)

1. This is a Civil Revision petition under Article 227 of the Constitution of India for setting aside the impugned orders dated 20.02.2020 (Annexure P-6) and 03.10.2023 (Annexure P-9) passed by the Civil Judge Junior Division, Ludhiana in Civil Suit No.4093 of 2017.

2. Learned counsel for the petitioner has submitted that vide order dated 20.02.2020 (Annexure P-6), the cross-examination of PW-1, who is the most material witness of the respondent No.1/plaintiff, had been treated as Nil and vide order dated 03.10.2023, the application filed by the petitioner for recalling the order dated 20.02.2020 had also been dismissed. It is submitted that in the present case, the respondent No.1 had filed a suit with the following prayers:

“Suit for declaration to the effect that the relationship between defendant No.1 and plaintiff are that on principal to principal basis and hence the defendant



No.1 is not the agent of the plaintiff for conducting any dealings/transactions on behalf of the plaintiff not the plaintiff company is liable/responsible for any commercial transactions entered defendant no.1 in his/her own right.

AND

For Declaration that Plaintiff's Rate Contract with the Defendant No. 2 is a direct and distinct one and is not susceptible to individual business transactions of Defendant No. 1.

AND

For permanent injunction restraining the Defendant no.2 from proceeding with the blacklisting matter of the Plaintiff otherwise than in accordance with the law and till the final decision of this suit.”

3. It is submitted that the petitioner is Punjab Agricultural University and has been impleaded as defendant No.2 in the said suit. It is argued that PW-1 Arun Kumar had appeared on 27.09.2019 and had tendered into evidence his duly sworn affidavit Exhibit PA along with documents Ex.P1 and Mark B/2 to Mark B/11 and thereafter the case was adjourned to 01.11.2019 for cross-examination. The zimni orders dated 01.11.2019, 05.12.2019 as well as 20.01.2020 have been highlighted by the learned counsel for the petitioner to show that the said PW was not present on the said three dates. The said zimni orders are reproduced as below:

*“Present: Sh.Rajat Malhotra, counsel for plaintiff.
Sh. Japinder Singh, counsel for defendant no.1.
Sh.B.L. Saini, counsel for defendant no.2.*

No PW is present. Adjournment sought. On request, adjourned to 05.12.2019 for cross-examination of PW-1.

Date of order:01.11.2019

***Serves Singh
Civil Juge(Junior Division)
Ludhiana
UID No.PB-0534”***

*“Present: Sh.Rajat Malhotra, counsel for plaintiff.
Sh. Japinder Singh, counsel for defendant no.1.*



Sh.B.L. Saini, counsel for defendant no.2.

No PW is present. Adjournment sought. On request, adjourned to 20.01.2020 for cross-examination of PW-1.

Date of order:05.12.2019

***Servesh Singh
Civil Juge(Junior Division)
Ludhiana
UID No.PB-0534”***

*“Present: Sh.Rajat Malhotra, counsel for plaintiff.
Sh. Japinder Singh, counsel for defendant no.1.
Sh.B.L. Saini, counsel for defendant no.2.*

No PW is present. Adjournment sought by counsel on the ground that PW could not arrange for flight ticket, Allowed. On request, adjourned to 20.02.2020 for cross-examination of PW-1.

Date of order:20.01.2020

***Servesh Singh
Civil Juge(Junior Division)
Ludhiana
UID No.PB-0534”***

4. It is submitted that the case was then adjourned to 20.02.2020, on which date, the PW was present but the cross-examination was not conducted, thus his cross-examination was treated as Nil. It is submitted that thus only on one date the cross-examination of the said PW could not be conducted and the impugned order dated 20.02.2020 was passed, which is prejudicial to the rights of the petitioner as it is the said witness who is the material witness. It is further submitted that the petitioner had moved an application (Annexure P-7) for setting aside that order dated 20.02.2020 at the stage when the case was fixed for cross-examination of the plaintiff witness Prashani Shukla. It is submitted that in the said application, it was submitted that earlier the petitioner was represented by Shri Bhajan Lal Saini, who had died on 18.12.2020 after long illness, and thereafter, the petitioner had engaged Shri Hari Mittar Sharma, who had also



unfortunately died on 03.10.2022, and it was only on 01.08.2023 during the cross-examination of the witness Prashani Shukla that the present counsel learnt that the cross-examination of PW-1 Arun Kumar has been treated as Nil, and thus a prayer was made for recalling the order dated 20.02.2020. It is submitted that however the trial Court vide impugned order dated 03.10.2023 had dismissed the said application against which the present revision petition has been filed. It is further brought to the notice of this Court that the Coordinate Bench while issuing notice of motion on 13.12.2023, was also pleased to pass an interim order to the effect that the trial Court was directed to adjourn the case beyond the date given by this Court. It is submitted that in view of the same, the matter is still pending and the case is now fixed for 11.08.2025 and is still at the stage of plaintiff evidence. It is argued that from above said facts and circumstances, it is apparent that it cannot be said that the petitioner has not pursued the case diligently. It is further submitted that at any rate, in case the petitioner is not given the opportunity to cross-examine PW-1 Arun Kumar, then, the petitioner would suffer irreparable loss and the case of the respondent No.1/plaintiff would go unrebutted. It is submitted that the petitioner seeks only one effective opportunity to cross-examine the said PW-1 and undertakes to examine the said PW-1 on the date the said PW-1 appears in Court.

5. Learned counsel for the respondent No.1/contesting respondent/plaintiff has, on the other hand, submitted that witness PW-1 is more than 70 years of age and resides in Mumbai. The said witness PW-1 has already retired from the plaintiff company and thus his whereabouts have to be found out. It is submitted that the petitioner should have cross-examined the said witness on 20.02.2020 as the said witness had come from Mumbai. It is argued that even in



case the petitioner is to be granted an opportunity, then only one effective opportunity should be granted and reasonable costs should also be imposed on the petitioner, and liberty should also be granted to respondent No.1 to move an application before the trial Court for conducting the cross-examination of the said PW-1 through video conferencing.

6. Learned counsel for the petitioner has submitted that the petitioner is Punjab Agricultural University and is a State University and the said fact should be considered while finally disposing of the matter.

7. Perusal of the above said facts and circumstances and the zimni orders would show that PW-1 Arun Kumar had appeared on 27.09.2019 and had tendered into evidence in chief along with documents and the case was adjourned to 01.11.2019. But on 01.11.2019, 05.12.2019 as well as 20.01.2020, the said PW-1 was not present and thereafter the case was adjourned for 20.02.2020, on which date the cross-examination of PW-1 was treated as Nil. In the said circumstances, on the first date of cross-examination i.e. 20.02.2020, the trial Court could have granted one last opportunity to the petitioner to cross-examine the said PW-1 subject to costs. However, the same was not done and the impugned order was passed. It is the case of the petitioner that the counsel who was representing the petitioner before the trial Court i.e., Shri Bhajan Lal Saini had died on 18.12.2020, and the subsequent counsel Shri Hari Mittar Sharma had died on 03.10.2022. It is not in dispute that when the application for recalling was filed, the case was fixed for cross-examination of another witness of the plaintiff. In case the petitioner is not granted one effective opportunity to cross-examine the said PW-1, then irreparable loss would be suffered by the petitioner.

8. Keeping in view the above facts and circumstances, the present



revision petition is partly allowed, and the impugned order dated 20.02.2020 (Annexure P-6) and order dated 03.10.2023 (Annexure P-9), to the extent that cross-examination of PW-1 has been treated as Nil, are set aside and one effective opportunity is granted to the petitioner to cross-examine the said PW-1 Arun Kumar.

9. It is made clear that the same would be subject to the petitioner depositing an amount of Rs.10,000/- on or before 11.08.2025, which is stated to be the next date of hearing and on deposit the trial Court would release the same to respondent No.1/plaintiff. In case the said amount is not deposited, then the present revision petition would be deemed to be dismissed. In case PW-1 Arun Kumar is able to appear in person, then the petitioner is directed to cross-examine the said PW-1 on the said date itself, and the trial Court is also requested to complete his cross-examination on the said date itself. It will be open to respondent No.1 to move an application for recording the cross-examination of the said PW-1 through video conferencing, which would be decided by the trial Court in accordance with law, after hearing all the concerned parties.

(VIKAS BAHL)
JUDGE

29.07.2025
mohit goyal

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No