



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

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CR No.7315 of 2024 (O&M)

Date of Decision :30.07.2025

Vijay Kumar**.....Petitioner****Versus****Ram Lubhaya and another****..... Respondents****CORAM: HON'BLE MR.JUSTICE VIKRAM AGGARWAL**

Present : Mr. Amandeep Singh Rai, Advocate for the petitioner.

VIKRAM AGGARWAL, J. (Oral):

The present revision petition, preferred under Article 227 of the Constitution of India, assails the order dated 04.10.2024 (Annexure P-2), passed by the Court of Civil Judge (Jr. Divn.), Amritsar, vide which the cross-examination of PW-3 was treated as nil.

2. The facts, as emanating from the revision petition, are that a suit (Annexure P-1) under Section 6 of the Specific Relief Act, 1963 (hereinafter referred to as '1963 Act') was instituted by the respondents-plaintiffs. During the course of trial, while the matter was fixed for cross-examination of PW-3, a request of deferment of the proceedings was made which was declined and cross-examination of PW-3 was ordered to be treated as nil.

3. Learned counsel submits that vide order dated 02.08.2024, costs of Rs.300/- were imposed which were to be paid to PW-3 on the next date of hearing i.e. 04.10.2024. However, on the said date, on account of a personal difficulty, neither could the costs be paid nor could the witness be cross-examined, as a result of which, the cross-examination was ordered to be treated as nil. He submits that the non-payment of costs was the result of a *bona fide* error and the prayer for adjournment was also *bona fide*. He also submits that he is willing to pay the costs. It is urged that one



opportunity be granted to the petitioner to cross-examine PW-3, failing which, the rights of the petitioner shall be gravely prejudiced.

4. I have considered the submissions made by learned counsel for the petitioner and deem it appropriate to allow the said prayer.

5. Concededly, vide order dated 02.08.2024, one witness PW-10 was present and his examination was completed. PW-3 was also present but could not be examined on a request for adjournment having been made by learned counsel for the present petitioner. The request was allowed and the case was adjourned to 04.10.2024. Costs of Rs.300 were imposed. On 04.10.2024, for a request for adjournment was again made and the said costs had not been paid, the cross-examination of PW-3 was ordered to be treated as nil. Though, no illegality is found in the said order, keeping in view the position of law that the matters should be decided on merits rather than on mere technicalities, I deem it appropriate to grant one more effective opportunity to the petitioner to cross-examine PW-3.

6. Accordingly, the revision petition is allowed and the impugned order dated 04.10.2024, is set aside. The trial Court is directed to grant one effective opportunity to the petitioner to cross-examine PW-3 on a date to be fixed by it. This shall however, be subject to payment of costs of Rs.5,000/-, which shall be paid to the respondents-plaintiffs.

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

(VIKRAM AGGARWAL)
JUDGE

30.07.2025

Manoj Bhutani

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