



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

**CR No. 6574 of 2023  
Reserved on: 21.01.2025  
Pronounced on :04.02.2025**

**Narinder Singh**

**...Petitioner**

**VS**

**Jagtar Singh**

**...Respondent**

**CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present: Mr. Ashish Aggarwal, Advocate  
for the petitioner.

Mr. Amit Arora, Advocate  
for the respondent.

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**VIKRAM AGGARWAL, J**

The petitioner assails the order dated 22.11.2021 (Annexure P-5) passed by the Court of learned Additional Civil Judge (Senior Division), Tarn Taran vide which the cross-examination of PW-1 Jagtar Singh, PW-2 Ninder Singh and PW-3 Partap Singh was ordered to be treated as nil.

2. The facts, as set out in the revision petition are that a suit for recovery of ₹6,33,000/- (rupees six lakh thirty three thousand) (Annexure P-1) was filed by the respondent-plaintiff Jagtar Singh against the petitioner-defendant Narinder Singh. Written statement (Annexure P-2) was filed. Issues were framed from the pleadings of the parties on 04.12.2019 after which, on account of the outbreak of COVID-19, the case was adjourned a number of times. Thereafter, PW-1 Jagtar Singh and PW-2 Ninder Singh appeared in the witness-box on 18.08.2021 for the first time. Without their affidavits having been tendered in examination-in-chief, the case was deferred for 22.09.2021 for their cross-examination and on the said date, it was again adjourned to 25.10.2021. On 25.10.2021, PW-3 Partap Singh

appeared and tendered his affidavit in examination-in-chief and the suit was adjourned to 22.11.2021 for cross-examination of all the witnesses. However, on 22.11.2021, the cross-examination of all three witnesses i.e. PW-1, PW-2 and PW-3 was ordered to be treated as nil despite the fact that no affidavits had been tendered by the witnesses in examination-in-chief and, therefore, the petitioner-defendant had no opportunity to cross-examine them.

3. It has further been averred that PW-4 Palwinder Singh stepped into the witness-box and was cross-examined on 20.12.2022. The interlocutory orders have been placed on record as Annexure P-6 colly.

4. An application (Annexure P-7) was moved by the petitioner-defendant for giving an opportunity to cross-examine the witnesses but the same was withdrawn on 18.10.2021 (Annexure P-9). Under the circumstances, the present revision petition has been preferred.

5. I have heard learned counsel for the parties.

6. Learned counsel for the petitioner submitted that the trial Court committed a grave error by ordering the cross-examination of PW-1, PW-2 and PW-3 to be treated as nil despite the fact that PW-1 and PW-2 had not even tendered their affidavits. He argues that in fact, the petitioner-defendant never came to know about the said order having been passed and it was only upon change of counsel that the said fact came to the notice of the petitioner-defendant after which initially, an application was filed before the trial Court and subsequently, after withdrawal of the said application, the present revision petition has been filed. He submitted that under the circumstances, the impugned order is not sustainable and, therefore, deserves to be set aside.

7. *Per contra*, learned counsel for the respondent submitted that there is no illegality or infirmity in the order because despite numerous

opportunities having been granted, the witnesses of the respondent-plaintiff were not cross-examined by the petitioner-defendant. He submitted that under the circumstances, a legal and valid order was passed by the trial Court. He argued that the revision petition is barred by delay and laches, for, the impugned order was passed as far back as on 22.11.2021 and the revision petition has filed in October 2023 i.e. nearly two years after the passing of the impugned order.

8. I have considered the submissions made by learned counsel for the parties and have perused the record which was duly summoned by the Court.

9. After perusing the record, this Court has no hesitation in holding that the suit in question has been handled with extreme carelessness by both sides. The suit for recovery of ₹6,33,000/- was instituted on 04.05.2019. After completion of pleadings, issues were framed on 04.12.2019 and the matter was fixed for 02.01.2020 for evidence of the respondent-plaintiff. For two dates, no witness was present after which, COVID-19 struck and the matter was adjourned from time to time till it was taken up on 02.03.2021. On 02.03.2021 and 25.03.2021 also, no witness of the plaintiff was present. Again the second wave of COVID-19 struck and the matter was adjourned.

10. The matter was finally taken up on 18.08.2021 when two witnesses PW-1 Jagtar Singh, PW-2 Ninder Singh appeared and their affidavits were duly tendered in evidence as Ex.PW1/A and PW2/A respectively. Despite their affidavits having been tendered, it was recorded in the order that no chief by way of affidavit was there:-

***“PW-1 and PW-2 are present and examined. No chief by way of affidavit. Their cross examination is defer on request of the***

***counsel for defendant. On request the case is adjourned to 22.09.2021 for cross examination PW1 and PW2.”***

The order shows the casual manner in which even the Court dealt with the matter. Even if the said fact is ignored for the time being, the fact remains that affidavits were tendered on the date fixed and, therefore, the specific case set up by the defendant that no affidavits were tendered falls to the ground. It needs to be added here that one of the crucial steps in preparing a case for arguments i.e. inspection of a file sadly appears to have been dropped by counsels nowadays. This concept of inspection of a file used to be and is still one of the most important aspects of legal practice which needs to be adopted religiously by all those who intend to practice law.

11. Be that as it may, the matter then remained present for evidence of the plaintiff. On 25.10.2021, PW-3 appeared and his affidavit was tendered in evidence but cross-examination was deferred. On 22.11.2021, the cross-examination of PW-1, PW-2 and PW-3 was ordered to be treated as nil. The order again deserve reference:-

***“PW1, PW2 and PW3 cross opportunity given Nil and now case stands adjourned to 23.12.2021 for remaining PWs.”***

The order again shows that the same is a completely non-speaking order and no reasons have been given as to why cross-examination was being ordered to be treated as nil. It needs to be emphasized here that Presiding Officers need to be fully vigilant and aware of the matters they deal with and any casual approach in dealing with important rights of parties should be viewed seriously.

12. After ordering the cross-examination to be treated as nil, the matter again remained pending for evidence of the plaintiff and 4-5 more

hearings were fixed for the said purpose. Eventually, the evidence of the plaintiff was closed on 20.12.2022. The matter then remained pending for evidence of the defendant and for 11 straight hearings no witness was produced by the defendant. Till this time it appears, neither the defendant nor his counsel realized that the cross-examination of PW1, PW2 and PW3 had been treated to be nil nor did they realize that they had not cross-examined the witnesses. This again shows the slip shad manner with which the matter was dealt.

13. If this was not enough, an application was filed by the defendant for seeking permission to cross-examine the plaintiff's witnesses. This application was moved on 21.03.2023. It is at this stage that the defendant woke up from his slumber and realized that the witnesses of the plaintiff had not been cross-examined. This application was ultimately withdrawn on 18.10.2023, after which, even the evidence of the defendant was closed on 31.10.2023. It is, thereafter, that the present revision petition was filed and, vide order dated 06.11.2023, a Co-ordinate Bench passed interim directions directing the trial Court to adjourn the case beyond the date fixed by this Court.

14. It essentially means that the parties are back to square one i.e. almost at the stage of framing of issues which were framed as far back as on 04.12.2019. The net result is that an irreparable damage has been caused not only to the rights of the parties but also to the institution which is already facing a flood of cases which includes litigants like the one in hand.

15. Ultimately, it is the litigant whose rights would suffer. Though, this Court has absolutely no sympathy with such careless litigants, I deem it appropriate to grant one opportunity to the defendant to cross-examine PW-1 to PW-3. The trial Court will grant one opportunity on which the plaintiff

shall produce PW-1 Jagtar Singh, PW-2 Ninder Singh and PW-3 Partap Singh and the defendant will cross-examine the said witnesses. Further, exercising inherent powers of this Court, though the evidence of the defendant also stands closed, two effective opportunities are granted to the defendant also to lead and conclude his evidence, lest, after the passing of this order, he rushes to this Court to seek another opportunity to lead evidence thereby wasting more time. Two opportunities are being granted to the defendant so that the plaintiff may get adequate opportunity to cross examine the witnesses produced by the defendant. This shall, however, be subject to payment of costs of ₹25,000/- to be paid to the plaintiff by the defendant.

This Court is sanguine that the parties shall now act diligently, so will their counsel as also the Court concerned and take the suit to its logical end within a time bound period. Under the peculiar facts and circumstances, the Court concerned is directed to finally decide the suit within a period of four months from today.

Disposed of in the above terms.

**(VIKRAM AGGARWAL)**  
**JUDGE**

**Pronounced on: 04.02.2025**

Rekha

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