



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

(127)

CR-6125-2025

Date of Decision:-04.09.2025

Kuldeep Raj alias Kuldeep Rai

.....Petitioner

Versus

Kasturi Lal and Others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Vipin Mahajan, Advocate,
for the petitioner.

AMARINDER SINGH GREWAL, J. (Oral)

1. The present petition has been filed under Article 227 of the Constitution of India praying for setting aside the order dated 08.01.2025 (Annexure P-4) passed by the learned Civil Judge (Junior Division), Gurdaspur, in Civil Suit No.1269/2019 titled "*Kasturi Lal & Others vs. Satpal & Others*", whereby the cross-examination of PW-2 Balwinder Kaur by the petitioner/defendant was ordered as "NIL". The petitioner has also sought quashing of order dated 29.05.2025 (Annexure P-7), whereby the application moved under Section 151 CPC for recalling of PW-2 for cross-examination was dismissed.

2. Brief facts of the case are that the respondents-plaintiffs instituted a suit for declaration and permanent injunction, claiming themselves to be co-sharers in the suit land and further challenging the sale deed and Will dated 10.03.2004. The petitioner-defendant filed written statement and issues were framed on 20.02.2023. During trial, PW-2



Balwinder Kaur was examined and on 03.12.2024, her cross-examination was partly deferred to produce certain sale deeds for confronting the witness. On 08.01.2025, PW-2 again appeared in Court. The zimni order for the said date, records the presence of learned counsel for the petitioner/defendant i.e. Mr. Ranjit Singh Goraya, Advocate. However, despite recording such presence, the learned trial Court closed the opportunity of the petitioners to cross-examine PW-2 by treating it as “NIL”.

3. Subsequently, an application under Section 151 CPC was filed seeking recall of PW-2 for cross-examination and for setting aside the order dated 08.01.2025. However, the said application was dismissed by the trial Court on 29.05.2025.

4. Learned counsel for the petitioner submits that the cross-examination of PW-2 Balwinder Kaur is crucial for the fair adjudication of the case. It is urged that closure of opportunity despite the presence of counsel amounts to denial of fair hearing and violates the settled principles of natural justice. It is further contended that non-grant of one effective opportunity to cross-examine PW-2 would cause irreparable prejudice to the defence of the petitioner and may ultimately result in miscarriage of justice. Learned counsel prays for one opportunity to cross-examine the PW-2 Balwinder Kaur, as petitioner has strong and substantial defence against the respondents in the suit.

5. I have heard learned counsel for the petitioner and perused the paper book.

6. In view of the nature of order proposed to be passed, issuance of notice to respondents is dispensed with, as it would only delay the



proceedings and cause unnecessary expense to the respondents.

7. A perusal of the zimni orders reflects that on 08.01.2025, the counsel for the petitioners was duly present in Court. Despite this, the opportunity to cross-examine PW-2 was closed by treating it as “NIL”. It is well settled that cross-examination is a valuable right of a party, forming an integral part of the principles of natural justice. Unless it is shown that the party deliberately avoided cross-examination despite repeated opportunities, such right cannot be lightly curtailed. The dismissal of the application under Section 151 CPC by the trial Court vide order dated 29.05.2025 has resulted in depriving the petitioners of an effective chance to put forth their defence. This Court is conscious that undue indulgence to parties in cross-examination may cause delay in trial. However, where one effective opportunity has been denied despite the presence of counsel, the balance of justice warrants that the party should not be shut out from leading its defence.

8. In light of the above, the present petition is allowed. The orders dated 08.01.2025 and 29.05.2025 are hereby set aside. The petitioner/defendant is granted one effective opportunity to cross-examine PW-1 Balwinder Kaur before the learned trial Court.

9. It is further made clear that the defendant/petitioner is granted only one final and effective opportunity to cross-examine PW2 Balwinder Kaur before the learned trial Court, subject to the following conditions:

(i) The petitioner shall pay costs of Rs. 5,000/- to the respondents/plaintiffs before commencement of PW2’s cross-examination.

(ii) The learned trial Court shall fix a peremptory date within 30 days from the receipt of this order for recording the entire cross-



examination of PW2, and shall make all endeavour to conclude it on the same day.

(iii) No further adjournment shall be granted to the petitioner on any ground, including non-availability of counsel. .

10. It is clarified that this Court has not expressed any opinion on the merits of the case. A copy of this order be transmitted forthwith to the learned trial Court for compliance.

11. All pending application(s), if any, stand disposed of accordingly.

(AMARINDER SINGH GREWAL)
JUDGE

04.09.2025

Shubham

Whether speaking/reasoned:-	Yes/No
Whether Reportable:-	Yes/No