



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

(127)

CR No.104 of 2025

Date of Decision: 13.01.2025

DGM Builders

...Petitioner

Vs

Jatinder Singh and company

...Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Mandeep Nagpal, Advocate  
for the petitioner.

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**VIKRAM AGGARWAL, J (ORAL)**

1. The present revision petition is directed against the order dated 03.12.2024, vide which the cross-examination on behalf of the petitioner-defendant as regards PW-Jatinder Singh was treated to be nil and the order dated 13.12.2024 vide which the evidence of the plaintiff was closed and the case was fixed for evidence of the petitioner-defendant.

2. A suit for recovery of ₹32,85,918/- along with interest @12% per annum was filed by the respondent-plaintiff. Initially, an *ex-parte* decree dated 26.02.2020 was passed against the petitioner-defendant, leading to the filing of an application under Order 9 Rule 13 CPC pursuant to which, vide order dated 19.09.2024, the *ex-parte* decree was recalled and the suit was restored to its original number. Learned counsel submits that the matter was eventually fixed for evidence of the respondent-plaintiff and on four dates i.e. 06.11.2024, 11.11.2024, 19.11.2024 and 25.11.2024, no evidence was produced by the respondent-plaintiff and the case was eventually adjourned to 03.12.2024. On this date, learned counsel representing the petitioner-defendant was in some other Court and a request for deferring the cross-examination was made. The trial Court, however, ordered to treat the cross-

examination as nil and adjourned the case to 13.12.2024 and on the said date, the evidence of the respondent-plaintiff was closed.

3. Learned counsel submits that the impugned orders have caused grave prejudice to the petitioner-defendant and prays that the orders be set aside. He undertakes that cross-examination of the plaintiff witness shall be conducted on the date fixed by the trial Court.

4. I have considered the submissions made by learned counsel for the petitioner.

5. The interlocutory orders passed by the trial Court have been placed on record as Annexure P-6. A perusal of the same shows that on 06.11.2024, 11.11.2024, 19.11.2024 and 25.11.2024, no witness of the respondent-plaintiff was present. On 19.11.2024, a statement was given by learned counsel representing the respondent-plaintiff that the affidavit of the plaintiff was already on record and the same be exhibited. On 25.11.2024, the matter was adjourned to 03.12.2024 when the impugned order was passed. The order dated 03.12.2024 shows that in the pre-lunch session, one witness of the plaintiff namely Jatinder Singh, who is the plaintiff himself was present but no one was present on behalf of the defendant to cross-examine. As a result of the same, the case was ordered to be taken up in the post lunch session. Even in the post lunch session, despite the witness being present, no body appeared on behalf of the defendant to cross-examine the plaintiff. Under such circumstances, the trial Court, while noting that the case was under the category of action plan cases, declined adjournment and ordered that the cross-examination of the witness by the defendant be treated to a nil.

6. In the considered opinion of this Court, this order is not sustainable, for, it was the first date on which an adjournment was sought by

the petitioner-defendant. Even if the case was under the category of action plan cases, the cross-examination should not have been treated as nil on the very first date and, in the considered opinion of this Court, another opportunity should have been granted to the petitioner-defendant to cross-examine. On the next date i.e. 13.12.2024, the evidence of the plaintiff was closed on a statement having been given by the plaintiff.

7. In the considered opinion of this Court, petitioner-defendant deserves to be granted another opportunity to cross-examine the witness of the plaintiff. At the cost of repetition, it is mentioned that the petitioner has undertaken that the witness shall be cross-examined on the date fixed by the trial Court. The Court is informed that the next date before the trial Court is **15.01.2025**.

In view of the aforementioned facts and circumstances, the present revision petition is allowed. The order dated 03.12.2024 is set aside. It is directed that an opportunity be granted to the petitioner-defendant to cross-examine the witness of the plaintiff on a date to be fixed by the trial Court.

Needless to assert that in terms of the undertaking given today before the Court, no adjournment would be sought by the petitioner-defendant for cross-examining the plaintiff. After the cross-examination is completed, the trial Court will be free to proceed in accordance with law.

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

**January 13, 2025**

Rekha

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