

(2011) 09 P&H CK 0180

High Court Of Punjab And Haryana At Chandigarh**Case No:** Civil Revision No. 5292 of 2011 (O and M)

Rajinder Singh

APPELLANT

Vs

Gurmel Singh

RESPONDENT

Date of Decision: Sept. 1, 2011**Acts Referred:**

- Constitution of India, 1950 - Article 227

Hon'ble Judges: Ram Chand Gupta, J**Bench:** Single Bench

Judgement

Ram Chand Gupta, J.

Petitioner has invoked supervisory jurisdiction of this Court under Article 227 of the Constitution of India for setting aside order dated 16.8.2011 passed by learned Civil Judge, (Junior Division), Dera-Bassi, Annexure P1, vide which evidence of Petitioner-Defendant was ordered to be closed.

2. I have heard learned Counsel for the Petitioner and have gone through the whole record carefully including the impugned order passed by learned trial Court.

3. It has been contended by learned Counsel for the Petitioner that only one witness of Petitioner-Defendant, namely, Pankaj Garg-DW8 remains to be cross-examined by counsel for the Respondent-Plaintiff and that No. other evidence is to be adduced by him.

4. Though sufficient opportunities have been granted by learned trial Court to Petitioner-Defendant to adduce evidence, however, in view of the fact that examination-in-chief of DW8-Pankaj Garg has already been recorded and that only his cross-examination is to be conducted, one opportunity can be granted to him for this purpose and the other party can be compensated by way of cost.

5. Hence, revision petition is accepted. Impugned order is set aside. Learned trial Court is directed to grant one opportunity to the Petitioner-Defendant to produce

DW8-Pankaj Garg for the purpose of cross-examination by the counsel for the Respondent-Plaintiff so that his statement be read in evidence subject to payment of Rs. 5,000/-as cost, which shall be a condition precedent.

6. Disposed of accordingly.

7. However, at this stage, No. notice is being issued to the opposite party, because if the Respondent is summoned to contest this litigation, it may involve huge expenditure and unnecessary harassment and delay of the proceedings. For this view, reliance can be placed upon a Division Bench judgment of this Court rendered in *Batala Machine Tools Workshop Co-op v. Presiding Officer, Labour Court, Gurdaspur*, CWP No. 9563 of 2002, decided on 27.6.2002, wherein it was observed as under:

We are conscious of the fact that the instant order is detrimental to the interest of the Respondent-workman. We are also conscious of the fact that No. notice has been given to the Respondent-workman before the instant order has been passed. The reasons for not issuing notice to the Respondent workman is to ensure that he does not have to incur unnecessary expenses in engaging counsel to appear on his behalf in this Court. The instant order by which the present petition is being disposed of fully protects the interest of the Respondent-workman inasmuch as the amount determined by the Labour Court, Gurdaspur, by its order dated 22.5.2002 has been required to be deposited by the Petitioner-Management before the Labour Court/Labour-cum-Conciliation Officer, Gurdaspur.

8. However, liberty is granted to the Respondent to get this revision petition revived if he feels dissatisfied with this order.