

(2010) 11 P&H CK 0655

High Court Of Punjab And Haryana At Chandigarh

Case No: CR No. 2381 of 2010 (O and M)

Savitri

APPELLANT

Vs

Durga Devi and Others

RESPONDENT

Date of Decision: Nov. 18, 2010

Hon'ble Judges: Mahesh Grover, J

Bench: Single Bench

Judgement

Mahesh Grover, J.

This revision petition is directed against the order dated 3.4.2010 vide which the prayer of the Petitioner to get herself examined as a witness has been declined.

2. Learned Counsel for the Petitioner states that it is only due to the lapse of the counsel that the Petitioner could not be examined as a witness.

3. The prayer is seriously opposed by the learned Counsel for the Respondent No. 1 who has made reference to the facts of the case and the zimni orders passed to contend that the plea of the Petitioner regarding the fault of the counsel is not bona fide as the counsel was participating in the proceedings all through out and has even challenged an order by which the evidence of the Petitioner was closed by way of CR No. 3625 of 2009. He thus contends that the Petitioner has no equity in law and therefore her prayer cannot be answered.

4. After hearing learned Counsel for the parties, I am of the considered opinion that there is no legal infirmity in the impugned order. The Petitioner has been participating in the proceedings through her counsel and the pleading that the counsel was negligent is untenable to say the least. There is thus no reason to answer the prayer which has been made by the Petitioner in terms of law. However, purely in order to ensure equitable justice, Trial Court is directed to grant one effective opportunity to the Petitioner to examine herself on the date fixed i.e. 27.11.2010. No further opportunity shall be granted to the Petitioner under any circumstance.

5. To ensure equitable justice further in favour of the Respondent No. 1 who is involved in adversarial litigation, the impugned order is set aside subject to Rs. 20,000/-as costs which shall be paid to Respondent No. 1 who has contested the proceedings.

6. Let the costs be deposited before the opportunity is granted to the Petitioner to examine herself.

Disposed of.