



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

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**CR No.3990 of 2023 (O&M)
Date of Decision: 20.04.2026**

M/S A.M. AUTO DIESEL AND ANR.Petitioner(s)

Vs

SH. VARINDER NATH MAYOR AND ORS.Respondent(s)

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

Present: Mr. Sahil Soi, Advocate
for the petitioner.

None for the respondents.

HARKESH MANUJA, J. (Oral)

[1]. By way of present petition filed under Article 227 of the Constitution of India, challenge has been laid to an order dated 08.08.2022 passed by the learned Civil Judge (Junior Divn.) Jalandhar, whereby the opportunity granted to the petitioners-tenants so as to cross-examine PW-1 Varinder Nath Mayo (landlord) was treated as nil.

[2]. Briefly stating, in the present case, an eviction petition came to be filed in the year 2017 at the instance of the respondents-landlords qua the demised shops no.9 and 10 situated at Mayor Building Nehru Garden Road, Jalandhar against the petitioners-tenants, wherein the respondents-landlords claimed their bona fide necessity qua the demised premises. Upon framing of issues, respondent No.1 appeared and tendered his affidavit on 06.05.2022 as PW-1. On the said date, at the request of learned counsel for the petitioners before the learned Trial Court, the matter was adjourned to 04.07.2022 for cross-examination of PW-1. On



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04.07.2022, though PW-1 appeared for his cross-examination, however again on request made by learned counsel for the petitioners, the matter was adjourned to 28.07.2022. Thereafter, the matter was listed on 08.08.2022. On that date, PW-1 was present, but a request was made on behalf of the petitioners-tenants for conducting the cross-examination, after lunch. However, even after lunch, PW-1 was not cross-examined, thereby resulting in closure of the opportunity granted to the petitioner-tenant. Relevant zimni orders passed by the learned Trial Court are extracted hereunder:-

Order dated 06.05.2022

*Present: Sh. MS Sodhi Advocate for petitioner.
Sh. Varun Khanna Advocate for respondent.*

PW-1 is present. Request for an adjournment by counsel for respondent, case stands adjourned to 04.07.2022 for cross examination of PW-1.

*Date of Order: 2022-05-06
Ritu Bala*

*(Joshica Sood)
Civil Judge Junior Division-14
UID NO . PB00530*

Order dated 04.07.2022

*Present: Sh. BACHAN LAL Advocate for the petitioner
Proxy counsel for the respondent.*

PW-1 is present for his cross-examination, however an application for adjournment has been moved by proxy counsel for the respondent on the ground that the main counsel is not well on account of high fever and is unable to come present before the court. In the interest of justice, case is adjourned to 28.07.2022 for cross-examination of PW-1 and remaining evidence of the petitioner.

*Date of Order: 2022-07-04
Randeep kaur*

*(Joshica Sood)
Civil Judge (Junior Division)-10
UID NO . PB00530*

**Orders dated 08.08.2022**

*Present: Sh.MS Sodhi Adv.cl.for petitioner.
Proxy counsel Sh. Arjun for respondent.*

PW-1 is present for his cross-examination however proxy counsel for respondent has pleaded that the case may be taken up after lunch since the main counsel has not come present and cross-examination of the witness shall be conducted after lunch. Accordingly the file be put up after 2.00 PM.

*Date of Order: 2022-08-08
Ritu Bala*

*(Joshica Sood)
Civil Judge (Junior Division)-10
UID NO . PB00530*

*Present: Sh.MS Sodhi Adv.cl.for petitioner.
Proxy counsel Sh. Arjun for respondent.*

File taken up again. Proxy counsel has stated at bar that the main counsel is appearing in a personal case before the Hon'ble Punjab & Haryana High Court and as such he shall not be able to cross-examine PWI today. At this, proxy counsel for respondent is hereby directed to file an application for adjournment specifying the name of the case personal in which the main counsel is appearing today before the Hon'ble Punjab & Haryana High Court. Accordingly the file be put up at 3.30 PM.

*Date of Order: 2022-08-08
Ritu Bala*

*(Joshica Sood)
Civil Judge (Junior Division)-10
UID NO . PB00530*

*Present: Sh.MS Sodhi Adv.cl.for petitioner.
Proxy counsel Sh. Arjun for respondent.*

File taken up again at 3.30 PM. No application for adjournment has been moved on behalf of the respondent. However a copy of details of adjournment of the Hon'ble Punjab & Haryana High Court in CRM-M 0246/2018 has been placed on record. Ld. proxy counsel has stated at bar that the main counsel is appearing in the said case today. However, the name of the advocate in the aforesaid case is different. Ld. proxy counsel is directed to place on record the zimni order to show that the main counsel is also one of the counsels appearing in the case. Accordingly the file be put up at 4.00 PM.

*Date of Order: 2022-08-08
Ritu Bala*

*(Joshica Sood)
Civil Judge (Junior Division)-10
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Present: Sh.MS Sodhi Adv.cl.for petitioner.

Proxy counsel Sh. Arjun for respondent.

File taken up again at 4.00 PM. Neither any application for adjournment has been moved nor any zimni order has been placed on record. Further none has appeared on behalf of respondent despite specific directions given by the court to the proxy counsel In view of the conduct of proxy counsel appearing on behalf of the respondent, this court finds that no ground is made out to grant further adjournment to the respondent for cross-examination of PW1. Even otherwise PW1 who is aged about 75 years has come from Delhi, is appearing in the 3rd time today for his cross examination and his main counsel has failed to appear again. Even otherwise no justifiable ground has been taken by the respondent for non-appearance of the main counsel. Rather the witness has been harassed since morning. In such circumstances, I do not deem it fit to further grant any opportunity to the respondent to cross examine PW-1. As such the opportunity given is treated as NIL. Now to come upon 29.08.2022 for remaining petitioner evidence.

Date of Order: 2022-08-08

Ritu Bala

(Joshica Sood)

Civil Judge (Junior Division)-10

UID NO . PB00530"

[3]. Aggrieved by the order dated 08.08.2022, the present revision petition came to be filed. Despite notice, no one has chosen to appear on behalf of the respondents.

[4]. I have heard learned counsel for the petitioners-tenants and gone through the paper book.

[5]. Though *prima-facie*, there appears to be no justified reason on the part of the petitioners-tenants for not availing the opportunity granted to cross-examine respondent No.1/PW-1, however, keeping in mind their substantial rights and also to afford them effective opportunity to defend their case in the eviction petition, it would be in the interest of justice, in case they are afforded another opportunity to cross-examine PW-1. Besides it, the impugned order dated 08.08.2022, whereby



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opportunity to cross-examine PW-1 was treated as NIL, is likely to cause substantial prejudice to the rights of the petitioners-tenants. Therefore, adopting a pragmatic approach rather than defeating the rights on hyper-technical grounds, the order dated 08.08.2022 passed by the learned Trial Court is hereby set aside. The petitioners-tenants are afforded one effective opportunity to cross-examine PW-1 in the eviction petition preferred at the instance of the respondents-landlords, however the same shall be subject to payment of cost(s) of Rs.1,00,000/- to be paid by the petitioners-tenants to the respondents-landlords on or before the date fixed before the learned Rent Controller.

[6]. Learned counsel for the petitioners has pointed out that the next date of hearing before the learned Trial Court is fixed for 06.05.2026. In such view of the matter, the learned Trial Court is requested to notify the parties about the present order and fix a date for appearance of respondent No.1 being PW-1 for his cross-examination. In case the, petitioners fail to deposit the cost(s) of Rs.1,00,000/- within time before the learned Trial Court, the same be recovered as arrears of Land Revenue and the opportunity afforded vide this order be treated as Nil.

[7]. The present petition is allowed in the above terms. Pending application(s), if any, shall also stand disposed of.

April 20, 2026*Atik***(HARKESH MANUJA)
JUDGE**Whether speaking/reasoned
Whether reportableYes/No
Yes/No