

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

C.R.No.203/2019
Sultan Ali Lakhani and others
Versus
Aamir Shahzad and another

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	19.06.2019	Mr. Ali Asghar Pasha Khan, Advocate for the petitioner. Malik Irfan Asif, Advocate for respondent No.1.

Through the instant civil revision petition, the petitioners impugn: (i) order dated 07.11.2018, passed by the Court of the learned Additional District Judge, Islamabad, whereby their right of defence was closed, and (ii) order dated 06.03.2019, passed by the Court of learned Additional District Judge, whereby their application for the grant of an opportunity to exercise their right of cross-examination, was dismissed.

2. Learned counsel for the petitioners submitted that the observation of the learned Trial Court that the petitioners had taken 32 opportunities to cross-examine PW-1 was not correct; that the petitioners had taken much less than 32 opportunities for the said purpose; that the learned Trial Court also erred by observing that petitioner No.1/defendant No.1's right of cross-examination had been struck of, vide order dated 13.02.2017; that in fact vide order dated 13.02.2017, the learned Trial Court had closed defendant No.1's right to file a written statement; and that the petitioners' right of cross-examination could not have been closed since defendant No.1 had not been present in the Court to cross-examine PW-1. Learned counsel for the

petitioners prayed for the grant of just one more opportunity to cross-examine PW-1.

3. On the other hand, learned counsel for respondent No.1 submitted that the petitioners had been trying to prolong the litigation; that the petitioners' right of cross-examination was closed after adequate warnings were issued to them by the learned Trial Court; and that there was no reason for defendant No.1 to be present in the Court since his right to file written statement had been closed and he had not been attending the proceedings. Learned counsel for respondent No.1 prayed for the revision petition to be dismissed.

4. I have heard the contentions of the learned counsel for the contesting parties and have perused the record with their able assistance.

5. As far back as 10.09.2016, respondent No.1 (Aamir Shahzad) filed a *"suit for recovery of damages on account of defamation"* against the petitioners and respondent No.2 before the Court of the learned District Judge, Islamabad. Petitioners No.1 and 2 contested the said suit by filing written statement. From the divergent pleading of the contesting parties, issues were framed by the learned Trial Court on 22.02.2017. Respondent No.1 appeared as PW-1 and his examination-in-chief was recorded on 14.07.2017. The order sheet reveals that numerous adjournments had been granted for the cross-examination of PW-1. Vide order dated 07.11.2018, the petitioners' right to cross-examine PW-1 was closed. On 26.11.2018, an application was filed on behalf of the petitioners for the grant of an opportunity to cross-examine PW-1. This application was dismissed, vide impugned order

dated 06.03.2019, which has been impugned by the petitioners in the instant civil revision petition.

6. The mere fact that defendant No.1 was not present in the Court to cross-examine PW-1 on 07.11.2018 did not absolve the petitioners from their responsibility to cross-examine PW-1 on the said date. The order sheet shows that the matter had been adjourned on numerous occasions at the instance of the petitioners. Be that as it may, in the interests of justice, the instant petition is allowed subject to the payment of costs to the tune of Rs.50,000/- payable by the petitioners to respondent No.1 on the next date of hearing before the learned Trial Court. The learned Trial Court in proceeding with the matter shall bear in mind the mandate of law, i.e. Section 14 of the Defamation Ordinance, 2002 (as amended by the Defamation (Amendment) Act, 2004), which requires a suit for defamation to be decided within a period of ninety days. The learned Trial Court shall not entertain any request on the petitioners' part for an adjournment.

(MIANGUL HASSAN AURANGZEB)
JUDGE

*Ahtesham**