

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No.776 of 2025

Decided on: 30.12.2025

Sh. Jatin Kumar	... Petitioner
Versus	
Sh. Suresh Bansal & another	... Respondents

Coram

Hon’ble Mr. Justice Ajay Mohan Goel, Judge.

Whether approved for reporting?¹

For the petitioner	:	Mr. Pranshul Sharma, Advocate.
For the respondents	:	No notice issued.

Ajay Mohan Goel, Judge (Oral)

By way of this petition, the petitioner has assailed order dated 27.10.2025 (Annexure P/3 Colly), in terms whereof, right of the petitioner/defendant to lead evidence stands closed by the learned Trial Court.

2. Impugned order dated 27.10.2025, reads as under:-

“Despite last opportunity, steps not taken. DW is not present nor produce. A perusal of the case file shows that an ample opportunities have been granted to defendant produce its evidence, but in vain. As such, evidence on behalf of defendant is hereby closed by the order of the Court.

Case be now listed for arguments on 12.12.2025.”

3. Having perused the impugned order and having heard

¹ Whether reporters of the local papers may be allowed to see the judgment?

learned Counsel for the petitioner, this Court does not find any infirmity therein.

4. Record demonstrates that statement of Pws was closed on 03.02.2018 and, thereafter, the case was ordered to be listed for recording the statements of Dws for 28.04.2018. On 28.04.2018, no DWs were present nor steps were taken and the case was ordered to be listed for 07.08.2018. On 07.08.2018 also, neither any DW was present nor any steps were taken by the defendants to produce any witness and the case was ordered to be listed for Dws on self responsibility on 02.11.2018. On 02.11.2018, an application was filed under Order 8, Rule 1A of the Civil Procedure Code by the defendants, which was allowed by the learned Trial Court on 01.01.2019 and again the case was listed for recording the statements of Dws on self responsibility for 20.04.2019. On 20.04.2019, three DWS were present and they were examined and now again, an application was filed under Order 7, Rule 14 of the Civil Procedure Code, which was allowed on 22.08.2019 and the case was ordered to be listed for recording the remaining Dws for 28.11.2019. On 28.11.2019, no Dws were present and the case was ordered to be listed for recording the statements of remaining DWS on 05.03.2020 on self responsibility. On 05.03.2020, no Dws were

present and the case was ordered to be listed for this purpose on 23.09.2020. Thereafter, on account of COVID-19 Pandemic, the case continued to be listed on various dates and when the matter was listed in the Court on 07.10.2021, the same was ordered to be listed on 05.03.2022 for recording the statements of Dws as last opportunity. On 05.03.2022, affidavit of DW Jatin Kumar was filed and time was prayed for his cross-examination. The case was listed for this purpose on 30.05.2022. On 30.05.2022, an application was filed by the plaintiff under Order 6, Rule 17 of the Civil Procedure Code and this application was dismissed on 02.12.2022. Thereafter, again the case was listed for cross-examination of Dws on 02.12.2022. As the witness was not present on 27.02.2023, along-with the documents, the cross-examination was deferred. Thereafter, when the case was listed on 25.11.2023, it was ordered that Dws be summoned for 28.03.2024. On 28.03.2024, Dws were not present. Thereafter, the case was listed and sent for mediation also and when the mediation failed, the case on 08.01.2025 was listed for examination of Dws on 15.03.2025. On 15.03.2025, the Presiding Officer was on leave and the case was listed on 10.03.2025. The matter was adjourned for 12.06.2025. On 12.06.2025, Dws were not present and the case was listed for the examination of Dws on

30.07.2025. On 30.07.2025, the concerned DW was not present and the case was listed for 27.10.2025 on self responsibility. Again on 27.10.2025, the DW, whose cross-examination was to be done was not present and it is in these circumstances that the impugned order was passed.

5. The above facts are self-explanatory that more than reasonable opportunities were granted by the learned Trial Court to the petitioner for his cross-examination, but the petitioner did not appear before the Court.

6. In these circumstances, this Court does not find any infirmity in the impugned order, in terms whereof, right of the defendants to lead evidence was closed, meaning thereby that the petitioner was denied the right to have himself cross-examined by the plaintiff.

7. In light of above observations, this petition is dismissed. Pending miscellaneous application(s), if any also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

December 30, 2025
(Rishi)