

IN THE HIGH COURT OF PUNJAB AND HARYANA, CHANDIGARH

SR. NO.211

CR-2607-2013

Decided on: 15.05.2015

AJMER SINGH

.....Petitioner

VS

SAJJAN SINGH

.....Respondent

CORAM HON'BLE MR. JUSTICE K.KANNAN

Present: Mr.Vijay Lath, Advocate for the petitioner.
Mr. Balbir Singh, Advocate for respondents no.1&2.
Mr. Gurcharan Dass, Advocate for respondent no.3.
Mr. Onkar Rai, Advocate for respondent no.4.

K.KANNAN, J

The petitioner is aggrieved that the witness was permitted to be summoned but when he did not turn up inspite of summons, the Court did not take coercive steps to secure his presence. The Court, therefore, treated the evidence as closed. The respondents/defendants would state that the defendant had availed more than six opportunities and inspite ofailable warrants being issued to the witness, plaintiff could not bring the necessary evidence of the witness. Therefore, no exception could be taken for the order passed by the Court closing the evidence.

It is a case where the respondents are setting up a will, the burden of which is only on the respondents/defendants. The plaintiff has, therefore, a right of rebuttal and if the plaintiff has been lax and is unable to secure the presence of the witness, the Court was perhaps justified in closing the evidence. Even while not finding any fault with the order passed by the Court, I will make one opportunity available to the plaintiff to take such steps as he deems proper for securing the presence of the witness in the Court.

I asked the counsel how long he would require to secure the presence and he believes that he will be able to secure the presence on the only hearing that the Court may grant.

The Court may fix a particular date not less than four

weeks' and leave it to the plaintiff to secure the presence of the witness. If he is unable to produce the witness and the plaintiff takes coercive steps to secure his presence, the Court may assist the plaintiff by such process or the Court may deem fit.

The petitioner shall pay ₹15,000/- to the respondents for the inconvenience which he has caused by his inability to produce the witness within a period of 4 weeks from today

The civil revision is disposed of.

15.05.2015
mamta

(K.KANNAN)
JUDGE