

CR-3646-2015 (O&M)

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

CR-3646-2015 (O&M).

Decided on: May 27, 2015.

Vijay Kumar and another

..... Petitioner(s)

Versus

Satish Kumar and others

..... Respondent(s)

*** * ***

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Mr.Rakesh Verma, Advocate,
for the petitioners.**

M.M.S. BEDI, J (ORAL).

The petitioners are plaintiffs before the trial Court. They have filed a suit for separate possession also claiming a decree for permanent injunction against the defendants-respondents.

Vide order Annexure P8 dated 12.5.2015 passed by the Civil Judge (Jr. Divn.), Rajpura, the objection petition against the permission to summon the defendants' witnesses has been dismissed by the trial Court.

Counsel for the petitioners has vehemently urged that the purpose for summoning the witnesses is required to be ascertained by a Court as per the provisions of Order XVI Rule 1 (2) CPC, but the trial Court without application of mind has permitted the respondents-defendants to deposit the diet money and to summon the witnesses at own responsibility of the defendants.

Counsel for the petitioners has made an attempt to

draw the attention of this Court to the pleadings in order to substantiate his argument that the witnesses summoned have got no concern with the controversy involved in the case.

I have heard the counsel for the petitioners and gone through the impugned order.

The defendants-respondents have filed an application Annexure P3, specifically mentioning the purpose for which the witnesses were required to be examined by the defendants-respondents.

I have gone through the pleadings of the parties indicating that the controversy involved in the matter is pertaining to separate possession and permanent injunction on the basis of some family settlement which is asserted by one and denied by another. The Court is not required to determine the authenticity of the terms of the family settlement as the parties appear to own different properties regarding which the plaintiffs have claimed separate possession. In the exercise of powers under Article 227 of the Constitution of India, it will not be appropriate for this Court to ascertain the admissibility, relevance and authenticity of a particular evidence which is sought to be produced by a party. The mandatory requirement that purpose of examining the witnesses should be mentioned in the application for summoning the witnesses appear to have been complied with in the application.

So far as relevance or irrelevance of the evidence

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or whether it is in consonance with the facts in issue or relevant to the case as per provisions of Section 5 of the Indian Evidence Act, is concerned, the same cannot be determined, at this stage.

This petition is dismissed warranting no interference in the impugned order. However, it will be open to the petitioners to challenge the validity, authenticity and credibility or relevance of the evidence produced by the defendants by cross-examination of the witnesses. It will also be open to the petitioners to raise the objections to the examination of the witnesses at the time of examination-in-chief of the witnesses.

May 27, 2015.
rka

(M.M.S. BEDI)
JUDGE