

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

C.R. No. 6167 of 2015 (O&M)

Date of decision:- 18.09.2015

Balbir Singh

...Petitioner

Versus

Tarsem Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Parveen Chauhan, Advocate
for the petitioner.

RITU BAHRI J.(Oral)

Plaintiff/Petitioner (for short 'petitioner') has filed the instant revision petition under Article 227 of the Constitution of India assailing order dated 15.09.2014 (Annexure P-5) passed by learned Civil Judge (Senior Division) Balachaur, whereby the petitioner was directed to deposit the diet money and file the list of witnesses within 7 working days failing which no assistance will be given for summoning the witnesses will be provided by the Court.

The plaintiff/petitioner filed a suit for mandatory injunction with a consequential relief of permanent injunction with a prayer to issue the directions to the defendants/respondents to remove the obstructions caused by them over the common drain by affixing footpath tiles illegally and forcibly. Respondents No. 1 to 6 and respondent No. 7 filed their written statements and the petitioner filed replication. The issues were framed vide order dated 15.09.2014 and in the later part of order, the

petitioner was directed to deposit the diet money and file the list of witnesses within 7 working days failing which no assistance will be given for summoning the witnesses will be provided by the Court (P-5). This order was not communicated to learned counsel and the learned Court below. The petitioner was under the impression that his counsel would summon the official witness i.e clerk/official incharge of the office of Block Development and Panchayat Officer, Balachaur at appropriate stage of evidence. Thereafter, the case was adjourned to 05.10.2015. In the meantime, learned counsel for the plaintiff/petitioner filed an application for summoning the above said witness for the date already fixed i.e 05.10.2015 along with record of application dated 23.10.2013 (P-7).

Learned counsel for the petitioner submits that the case of the petitioner is at the initial stage and the plaintiff's evidence is still going and no prejudice would be caused to the defendants if the petitioner is allowed to file list of his witnesses or even if the learned Court below granted assistance to summon only the Block Development and Panchayat Officer, Balachaur

I have heard learned counsel for the petitioner and perused the case file.

Keeping in view the above fact, order dated 15.09.2014 is hereby set aside and the instant revision petition is **allowed** and the petitioner is allowed to file list of witnesses at this stage and examine clerk/official incharge of the office of Block Development and Panchayat

Officer, Balachaur on 05.10.2015, subject to payment of Rs.3000/- as cost, to be deposited before the District State Legal Services Authority, Balachaur.

September 18, 2015
G Arora

(***RITU BAHRI***)
JUDGE