

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 7047 of 2014 (O&M)
Date of decision: 10.07.2015

Amar Singh and others

... Petitioners

versus

Triveni Devi

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. D.S. Bali, Senior Advocate with
A.V.S. Barsat, Advocate for the petitioners.
Mr. Deepak Girhotra, Advocate for the respondent.

K.Kannan, J.

The revision is sought against the party who is examined on 04.01.2013 was not available for cross-examination since he had been taken in confinement for some criminal offense and later convicted. The case was closed on 25.07.2014 when an application for recalling the witness was filed under Order 18 Rule 17. The Court recorded the fact of several dates of adjournments and the want of effective steps for examining the witness who was in judicial confinement.

The counsel appearing on behalf of the respondent says that no steps had been taken to secure the witness in Court from the jail and no opportunity shall be given. The suit claim is in relation to claim of immovable property and the person who was not examined is not merely a 3rd party witness but a party himself. The non-examination of the defendant has been occasioned surely by gross negligence of the respondent and the panacea shall be direction for payment of costs. I direct the defendant to pay the cost of Rs. 15,000/- to the plaintiff

within a period of two weeks from the date of the passing of the order. The trial court shall reopen the case for the defendant and allow for the steps to be taken to be brought to Court for examination in Court. The chief examination shall be secured through proof affidavit before hand or conducted in open Court on his production and the cross-examination shall be done on the same day. The Court will make appropriate time to complete the same. If there are other cases which come in the way, all other cases will be adjourned to allow for the party to brought to court from confinement and for completion of cross-examination . If the defendant does not take immediate steps to have the the party witness in jail to be served with notice, no other opportunity need to be given. If there is any default on the part of the Police in bringing the party to Court, the information may be given to the District Judge for giving appropriate instruction to the Superintendent Jail and ensure that the party is brought to Court on that date.

The order impugned is set aside and the revision petition is allowed on the above terms.

(K.KANNAN)
JUDGE

10.07.2015

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