

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

**CR No.7987 of 2014
Date of Decision: 14.07.2015**

Kashmir Singh

...Petitioner

Versus

Jaswant Singh and others

...Respondents

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

Present : Mr. Daman Jeet Bhorival, Advocate
for the petitioner.

Mr. Parvinder Singh, Advocate
for Mr. Raman Goklaney, Advocate
for respondents No.1 and 2.

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

This order will dispose of a revision petition filed by the defendant-petitioner challenging the Order dated 3rd November, 2014 passed by Additional Civil Judge, Senior Division, Ferozepur closing the evidence of the defendant by order.

Learned counsel for the petitioner submits that DW, Clerk of office of Naib Tehsildar, Mamdot was served for 20th October, 2014 but he did not come present as such bailable warrants were issued for his appearance for 3rd November, 2014. On 3rd November, 2014 again no witness was present. Adjournment prayed for by the defendant was declined and the evidence was closed. Learned counsel for the petitioner submits that without there being any fault on the part of defendant-petitioner, he has been deprived of an opportunity to conclude his evidence.

Learned counsel for the respondents has vehemently opposed the petition contending that 11 effective opportunities had been granted to the defendant to conclude the evidence. In view of the said

circumstances, he has supported the order dated 3rd November, 2014 closing the evidence of the defendant.

After hearing learned counsel for the parties, I am of the opinion that once a witness had been summoned by the Court for 3rd November, 2014 he should have been examined on said date. The trial Court seems to have without caring about the service of said witness, opted to close the evidence in hurry. The order dated 3rd November, 2014, on the face of it, is illegal and is hereby set aside. A direction is issued that the trial Court shall fix a date for permitting the defendant-petitioner to conclude his evidence specially the production of official witness who had been summoned by issuing summons as well as bailable warrants. In case coercive methods are required to be adopted, it will be open to the trial court to follow the procedure under Order 16 Rule 10 CPC.

In view of the said circumstances, this petition is allowed. Parties are directed to appear before the trial Court on the date already fixed.

14.07.2015
Dpr

(M.M.S. BEDI)
JUDGE