

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

-.-

Civil Revision No. 8186 of 2014
Date of decision : 20.11.2015

Rama Nand & Ors.

... Petitioners

versus

Subhash & Anr.

... Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Lokesh Sinhal, Advocate, for the petitioner.

Mr. Atin Mehta, Advocate, for respondent No.1.

RITU BAHRI, J. (Oral)

The petitioner has come up in the revision against the order dated 15.11.2014, passed by Civil Judge (Junior Division), Faridabad, whereby an application under Order 16 Rule 1 has been allowed. A perusal of order dated 11.11.2014 (Annexure P/3) shows that on that day no witness of the plaintiff-respondent was present and the matter was adjourned to 15.11.2014 to enable the plaintiff-respondent to record evidence at his own responsibility subject to last opportunity and after that the order dated 15.11.2014 was passed. An application (Annexure P/1) was filed on the same day by the plaintiff-respondent for summoning a list of witnesses and the same was decided vide order dated 15.11.2014.

Order 16 Rule 1 of the Code of Civil Procedure read as under:-

1. List of witnesses and summons to witnesses.- (1)

On or before such date as the court may appoint, and
not later than fifteen days after the date on which the

issues are settled, the parties shall present in court a list of witnesses whom they propose to call either to give evidence or to produce documents and obtain summonses to such persons for their attendance in court.

2. A party desirous of obtaining an summons for the attendance of any person shall file in court an application stating therein the purpose for which the witness is proposed to be summoned.
3. The court may, for reasons to be recorded, permit a party to call, whether by summoning through court or otherwise, any witness, other than those whose names appear in the list referred to in sub-rule (1), if such party shows sufficient cause for the omission to mention the name of such witness in the said list."

As per the above said, clause 3 provides Court with the discretion to allow any party to call any witness other than those whose names appears in the list of witnesses, but only when such party shows some sufficient cause for omission of filing the list of witnesses. The discretion has to be used in the interest of justice and for proper adjudication of rights of both the parties.

It is not a dispute between the parties before this Court that no list of witnesses was given by the plaintiff after framing of the issues. This omission on the part of the plaintiff-respondent necessitated filing of the

present application (Annexure P/1). Only evidence of the plaintiff-respondent and cross-examination had been recorded, even though a list of witnesses have been provided. Now in the present application, it would amount to be a first list, which the plaintiff-respondent should have been filed. Only on this fact, learned Judicial Magistrate, Ist Class, Faridabad, has rightly allowed the application.

No ground is made out for interference.

Dismissed.

November 20, 2015
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(RITU BAHRI)
JUDGE