

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

CR No. 1430 of 2016

Date of decision :25.02.2016

Inderawati

..... Petitioner

Versus

Suman & etc.

.....Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.Ashwani Verma, Advocate
for the petitioner.

DARSHAN SINGH, J. (Oral)

The present petition has been preferred against the order dated 30.01.2016, vide which the evidence of the petitioner-defendant no.1 has been closed by order by the learned trial Court and the application filed to recall the said order was also dismissed vide impugned order dated 16.02.2016.

2. Learned counsel for the petitioner contended that the petitioner is to examine only one witness namely Surender Kumar Sain, Advocate, who was the scribe of the documents. He contended that the said witness could not appear due to illness. He was a summoned witness. His expenses were deposited by the petitioner. On the summons for 30.01.2016, he has made a request for adjournment, if his request was not acceptable the learned trial Court could have adopted the coercive method to procure his presence. But, instead of that,

evidence of the petitioner has been closed. The petitioner was not at fault for the non appearance of that witness.

3. I have duly considered the aforesaid contentions.

4. From the averments in the revision petition, it comes out that DW-Surinder Kumar Sain, was a summoned witness. He has been sending requests to the Court that he is unable to appear in the Court due to illness. If, the Court was not inclined to accept his request, the Court could have adopted the coercive methods to secure his presence instead of closing the evidence of the petitioner as the petitioner could not be stated to be at fault for his non-appearance. Learned counsel for the petitioner has stated that one more opportunity may be granted to the petitioner and petitioner will produce DW-Surinder Kumar Sain, Advocate on the date fixed at his own responsibility.

5. Thus, in the interest of justice, the present revision petition is hereby allowed and the petitioner is afforded one opportunity to produce DW-Surender Kumar Sain, Advocate in his evidence at his own responsibility subject to Rs. 10,000/- as costs on the date to be fixed by the learned trial Court for this purpose.

25.02.2016

S.khan

(DARSHAN SINGH)
JUDGE