

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 3578 of 2016

Date of Decision: May 23, 2016

Harvinder Pal Singh

---Petitioner

versus

Sushil Kumar and Others.

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Sandeep Kotla , Advocate
for the petitioner.**

Rekha Mittal, J. (Oral)

The present petition has been directed against order dated 29.03.2016 passed by the Civil Judge (Junior Division),Gurgaon whereby evidence of the petitioner has been closed by order.

Counsel for the petitioner has submitted that the petitioner summoned official witnesses namely ASI Surjit Singh, concerned Clerk in the office of Estate Officer-II, Sector 34, Gurgaon, Clerk from the office of Estate Officer, HUDA Sector 14, Gurgaon and Assistant Manager, ICICI Bank through process of the Court and all these witnesses were served but did not come present, therefore, petitioner cannot be blamed for his failure to examine the aforesaid witnesses on 29.03.2016. It is further submitted that the trial Court in place of procuring presence of these witnesses through coersive process has passed the order prejudicial to the interest of the

petitioner. It is further argued that in case the petitioner is allowed one effective opportunity, he would ensure presence of the witnesses along with relevant record on the date to be fixed by the trial Court. Counsel has apprised the Court that subsequent to closing of evidence of the petitioner/plaintiff on 29.03.2016, there is no progress in the proceedings as the defendants have not adduced any evidence.

I have heard counsel for the petitioner, perused the paper book particularly the impugned order.

The contentions raised by counsel for the petitioner with regard to summoning of aforesaid witnesses through process of the Court, their failure to turn up despite service gets substantiated from impugned order dated 29.03.2016. The petitioner has undertaken to ensure presence of the witnesses before the trial Court on the date fixed if he is allowed one effective opportunity to examine the witnesses. In the given facts and circumstances coupled with the principles of natural justice, it is expedient in the interest of justice that the petitioner is allowed one effective opportunity to examine the aforesaid four witnesses by ensuring their presence at his own responsibility.

In view of what has been discussed hereinabove, the petition is allowed and the petitioner is provided with one effective opportunity to examine the aforesaid witnesses on the date to be fixed by the trial Court, in the aforesaid terms.

It is pertinent to mention here that the petition has been disposed of without notice to the respondents in order to save them from unnecessary expenses and inconvenience. However, the respondents would be at liberty to file an appropriate application in case they have any grievance to express.

(Rekha Mittal)
Judge

May 23, 2016
'D.Gulati'