

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.4338 of 2016

Date of Decision.13.07.2016

Ludhiana Improvement Trust

.....Petitioner

Vs.

Tarlochan Singh and another

.....Respondents

Present: Mr. Manbir Singh Batth, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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AMIT RAWAL J. (ORAL)

This Court vide order dated 21.01.2016 disposed of the revision petition bearing No.992 of 2015 while directing the trial Court to expedite the disposal of the suit by the fixing the time line for the defendant to conclude the evidence by giving three effective opportunities and one effective opportunity for rebuttal.

Mr. Manbir Singh Batth, learned counsel for the petitioner submits that the petitioner in obedience of direction in the order of this Court had deposited the diet money of the witnesses by receipt No.6452 dated 29.01.2016 and obtained the summons for effecting services on the witnesses. One concerned official from the office of Commissioner of Police, Ludhiana was summoned along with the record of the application/complaints given by the Ludhiana Improvement Trust for removing of articles illegally stored/kept by the officials of police post bus stand, Ludhiana in the property in dispute measuring 1120 sq yards of Ludhiana Improvement Trust which was surrounded by boundary wall by

the Ludhiana Improvement Trust and also record regarding removal/lifting of the said articles by the police officials and also record for lifting of 800 CC maruti car which is still lying parked in the property in dispute. The said witness appeared as DW6 but he failed to bring the summoned record. On the next adjourned date, he did not appear and was summoned through bailable warrants. Later on, when the said official witness appeared, he submitted that the record in the office of Commissioner of Police, Ludhiana was not available and it is required to be summoned from the Police Station of Division No.5 and under these circumstances, the time granted by this Court had elapsed and thus, it was not within the control of the petitioner to complete the evidence but the Court below despite knowing the above-mentioned facts and directions of this Court, had closed the evidence.

I have heard the counsel for the petitioner, appraised the paper book and of the view that once the petitioner-defendant had taken the necessary steps in pursuance of the direction of this court, the trial court ought not to have closed the evidence, keeping in view the facts narrated in the application particularly when the record, which was ordered to be summoned, was with some other official and the official was summoned with record thrice, later on disclosed that the record was not with him and under these circumstances, the time had elapsed. It is matter of record that an application was moved for summoning the witness from Police Station of Division No.5 which has been declined vide impugned order.

Keeping in view the aforementioned facts, I am of the view that the petitioner should be granted one more opportunity to examine the witnesses mentioned in the application by obtaining dasti summons. The Court below shall ensure that the witnesses are summoned in strict

adherence to the direction of this Court and shall take appropriate steps in accordance with law under Order 16 Rule 12 CPC.

In view of the above, the petitioner is granted one more effective opportunity to examine the witnesses already indicated in the application namely:-

“(c) The concerned police official from the office of Police Post Bus Stand, PS Division No.5, Ludhiana along with copy of letter No.3796 dated 4.9.2013 written by Executive Engineer, LIT to SHO PS Division No.5, Ludhiana, copy of the same was sent to the Commissioner of Police, Ludhiana which was received at Sr. No.3797 dated 4.9.2013 which was marked to ADCP-3, Ludhiana who further marked it to ADCP (W)/ SHO PS Division No.5, Ludhiana.

(d) The concerned police official from the office of PS Sarabha Nagar, Ludhiana along with record of letter No.1393 dated 3.7.2009 which was received in the office of SSP, Ludhiana at Sr. No.8878/B dated 3.7.2009 which was marked to DSP Sarabha Nagar, Ludhiana on 6.7.2009 along with enquiry reports of these complaints.”

Though the circumstances were beyond the control of petitioner but still unnecessary delay caused in prosecuting the case that can be compensated only through imposition of costs which is quantified to the tune of ₹5000/-. If the costs is not paid as directed, the order already passed by the Court below shall stand restored.

The order impugned is set aside and the revision petition is allowed with the above direction.

(AMIT RAWAL)
JUDGE

July 13, 2016
Pankaj*