

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

**CR No.6858 of 2015(O&M)**

**Date of decision:14.3.2016**

Ashok Kumar

....Petitioner

VERSUS

Gurcharan Singh and another

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Rajiv Joshi, Advocate for the petitioner.

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**REKHA MITTAL, J.(Oral)**

The present petition lays challenge to the order dated 07.04.2015 (Annexure P-6) passed by the learned trial Court whereby evidence of the petitioner has been closed by order.

There is no representation on behalf of the respondents despite their service for 20.11.2015. As a consequence, they are proceeded against ex parte.

Counsel for the petitioner would contend that the petitioner has filed a suit for possession by way of specific performance of an agreement to sell. Along with plaint, an application (Annexure P-2/A) was filed for summoning of witnesses on deposit of process fee and diet money that was allowed and an amount of Rs.2450/- was deposited in compliance of the order passed by the Court. It is further submitted that the petitioner summoned official witnesses mentioned at Serial No.ix i.e. concerned Clerk/official from the office of Sub Registrar, Ludhiana (East) along with

the records of sale deeds detailed in sub paras [a] to [f] as well as concerned Clerk/official from the office of Sub Registrar, Ludhiana (West) along with the records of sale deed mentioned at Serial No.[a] but evidence of the petitioner has been closed by order without appreciating that as the petitioner has summoned the official witnesses through process of the Court and did not commit any default in compliance with the order passed by the Court, right of the petitioner to examine these witnesses cannot be taken away. It is urged that the case is pending for recording evidence of defendants/respondents and in case one effective opportunity is allowed to examine the aforesaid official witnesses along with records, the petitioner would ensure their presence before the Court along with relevant record on the date to be fixed by the trial Court.

I have heard counsel for the petitioner, perused the records and find that contentions raised by the petitioner are meritorious and deserve to be accepted.

The petitioner submitted an application for summoning of witnesses through process of the Court and the two witnesses now sought to be examined are the official witnesses whose testimony is to be recorded on the basis of official records. A perusal of the impugned order would reveal that the learned trial Court has not pointed out any lapse on part of the petitioner in regard to failure to examine these witnesses.

As the witnesses have been summoned through process of the Court by depositing necessary diet money and the witnesses happen to be officials of the office of Sub Registrar, the petitioner is entitled to indulgence of this Court for seeking one effective opportunity for

examination of both the official witnesses subject, however, to the condition that the petitioner would ensure presence of witnesses along with records before the trial Court, on the date to be fixed for the purpose.

In view of what has been discussed hereinabove, the petition is disposed of in the aforesaid terms.

**MARCH 14, 2016**  
'D. Gulati'

**(REKHA MITTAL)**  
**JUDGE**