

In the High Court of Punjab and Haryana at Chandigarh

PARAMJIT KAUR SAINI
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Civil Revision No.770 of 2016
Date of Decision: 11.2.2016

Rajbir Singh and others

---Petitioners

versus

Kuldeep Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Shalender Mohan, Advocate
for the petitioners

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

Rekha Mittal, J.

The present petition lays challenge to orders dated 27.1.2016 (Annexure P-4) and dated 8.1.2016 (Annexure P-1) passed by the Civil Judge (Junior Division), Hisar whereby the application filed by the petitioners for recalling order dated 8.1.2016 has been dismissed and evidence of the petitioners has been closed by order, respectively.

Counsel for the petitioners contends that evidence of the respondents/plaintiffs was concluded in August 2015 and thereafter, the case was fixed for evidence of the petitioners/defendants. It is further argued that during a short duration of 4-5 months, though the case was adjourned on 5-6 occasions, the petitioners have already examined two private witnesses and deposited diet money for summoning of one witness from the office of Haryana Urban Development Authority, Hisar (for short "HUDA")

and an official from the office of Nazar, District Court Hisar alongwith records. It is further submitted that despite service of official witnesses through process of the Court, they did not turn up for examination. The learned trial court, in place of initiating coercive steps for ensuring presence of aforesaid witnesses closed evidence of the petitioners and later the application filed by them for recalling order dated 8.1.2016 has been dismissed. It is further submitted that a serious prejudice would be caused to the petitioners in case, they are not permitted to examine at least the witness from the office of the HUDA alongwith records. It is prayed that one opportunity may be provided to the petitioners to examine that witness and the petitioners would ensure presence of the witness alongwith relevant record on the date fixed.

I have heard counsel for the petitioners and perused the records including attested copies of various documents filed in the Court, taken on record, which make it evident that the petitioners were permitted to deposit diet money for summoning of a Clerk from the office of HUDA as well as the office of the District Nazar of District Court Hisar. It is further revealed that the witnesses were served but they did not come present. The zimni orders recorded by the court do not make reference to service of the witnesses much less any effort by the court to ensure their presence through coercive means. Keeping in view the facts and circumstances of the present case, it is expedient in the interest of justice that the petitioners are allowed one effective opportunity to examine the official witnesses

summoned through process of the Court, subject, however, to the condition that the petitioners shall ensure presence of the witnesses alongwith records on the date to be fixed by the trial court.

For the foregoing reasons, the petition stands disposed of in the aforesaid terms.

(Rekha Mittal)
Judge

11.2.2016
PARAMJIT