

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

C.R. No.8283 of 2016

Date of Decision.07.12.2016

Randhir Singh

.....Petitioner

Vs

Gurdev Singh

.....Respondent

Present: Mr. Vivek Slathia, Advocate for
Mr. Vikas Gupta, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

Mr. Vivek Slathia, learned counsel appearing for the petitioner submits that vide impugned order dated 14.09.2016, the evidence of the petitioner-plaintiff has been closed.

He further submits that for proving the case diet money, much less, process fee had already been deposited for examination of the attesting witness of the pro note namely Gurtej Singh but he did not come to Court. Since the witness was not adhering to the summons issued, the Court put the onus of examining the witness on plaintiff on his own responsibility. The witness is not within the control of the petitioner-plaintiff and the Court should have resorted to the provisions of Order 16 Rule 12 CPC, thus, urges this Court for setting aside the order under challenge as the same is not sustainable in the eyes of law.

I have heard learned counsel for the petitioner, appraised the paper book and of the view that there is justification and force in the submissions of Mr. Slathia. If the process fee and diet money of the witness had been deposited, it is incumbent upon the Court to ensure the presence of

the person/witness in accordance with the provisions of law as indicated above and ought not to have resorted the closure of evidence.

In view of the aforementioned fact, the impugned order is set aside and opportunity is granted to the petitioner to summon the witness in the manner and mode indicated above, subject to payment of costs of ₹2500/-. The revision petition is allowed to the above extent.

(AMIT RAWAL)
JUDGE

December 07, 2016

Pankaj*

Whether speaking/reasoned Yes

Whether reportable No