

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

**CR No.1182 of 2017 (O&M)
Date of decision: March 01, 2017**

Vakil Chand

...Petitioner

Versus

Rajinder Kaur and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Parvez Chugh, Advocate
for the petitioner.

JASPAL SINGH, J.(ORAL)

By virtue of the instant petition preferred under Article 227 of the Constitution of India, petitioner has sought setting aside of order dated 6th February, 2017 (Annexure P-9) passed by Additional Civil Judge (Senior Division), Guruhashah in Civil Suit No.CS/927/2014 whereby the evidence of the petitioner/defendant has been closed by the orders of the Court.

The contention of learned counsel for the petitioner is that after recasting of issues vide order dated 16th December, 2016, the suit was listed for the evidence of petitioner/defendant for the first time with direction to produce entire evidence on 6th January, 2017. However, on 3rd January, 2017, petitioner moved an application for summoning the concerned Clerk from the Office of Deputy Commissioner, Ferozepur along with record mentioned in the application. He further contends that on account of demise of the grandfather of learned counsel appearing before the trial Court, he could not collect the *dasti* summons of the witness and subsequently, the evidence was closed without securing the presence of the official witness i.e. the concerned Clerk from the office of Deputy Commissioner, Ferozepur.

No doubt, the suit pertains to the year 2014, yet the trial Court is under obligation to secure the presence of the official witness which can be said beyond the control of the private persons/parties. Once the diet money of the official witness has been deposited and the notice has been issued, it becomes obligatory upon the Court to secure his presence and to examine the said official as a witness to impart justice to the parties. Thus, this Court is of the considered view that impugned order dated 6th February, 2017 is not sustainable in the eyes of law and deserves to be *set aside*.

In view of what has been discussed above, impugned order dated 6th February, 2017 is *set aside* by way of acceptance of the instant revision petition. Trial Court is directed to afford two opportunities to the petitioner/defendant to adduce and conclude his evidence.

A copy of this order be sent to the concerned Court for compliance.

Disposed of.

March 01, 2017
m. sharma

(JASPAL SINGH)
JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No