

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

Sr. No.117

Civil Revision No. 1192 of 2017
DECIDED ON: March 07, 2017

Bawi @ Bibi Kaur

..PETITIONER

VERSUS

Jasbir Kaur and another

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Ravi Kant Sharma, Advocate,
for the petitioner.

JASPAL SINGH, J. (ORAL)

CM No.3555-CII-2017

Application is allowed as prayed for.

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By virtue of the instant petition preferred under Article 227 of the Constitution of India, petitioner has sought setting aside the order dated February 08, 2017 (Annexure P-2) passed by learned Civil Judge (Jr. Divn.) Mohali, whereby evidence of the petitioner/plaintiff has been closed by order.

A glance at the various interim orders available on file reveals that Superintendent O/o Sub Registrar, SAS Nagar, Mohali was summoned as a witness and he was served for his appearance along with record for 19.11.2016, but he did not comply with the notice and remained away from the court. Subsequently, the summons issued to him for 16.01.2017 were received back with the report that complete details of the records be

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disclosed. However, in the given circumstances, even though, the last opportunity was granted to petitioner/plaintiff to adduce/conclude his evidence but securing the presence of the witness i.e. Superintendent O/o Sub Registrar, SAS Nagar, Mohali was not within the reach of the petitioner/plaintiff, who is stated to be aged about 80 years. Even otherwise, when a witness is being summoned by the court, it becomes the duty of court to secure the presence by adopting coercive method i.e. issuance of bailable or non-bailable warrants. For that reason, party should not be made to suffer.

Thus, this court is of the considered view that impugned order dated February 08, 2017 is not sustainable in the eyes of law and as such, same is set aside.

The trial court is directed to secure the presence of the Superintendent O/o Sub Registrar, SAS Nagar, Mohali and to examine as a witness. However, if respondents feel aggrieved of this order, they may approach this court as it is being passed in their absence.

In view of aforesaid, instant petition stands disposed of.

March 07, 2017

Ankur

**(JASPAL SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No