

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

CR No.1604 of 2017

Date of decision: March 06, 2017

Dalip Singh

.....Petitioner

Versus

Amar Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Diwan S. Adlakha, Advocate
for the petitioner.

JASPAL SINGH, J. (ORAL)

By virtue of the instant petition preferred under Article 227 of Constitution of India, petitioner has sought issuance of direction to the trial Court to pass an appropriate order in view of orders dated 1st April, 2016, 23th August, 2016 and 10th November, 2016 vide which “*last opportunity for evidence to the respondent/plaintiff has been granted with direction, failing which, it was ordered to be deemed to be closed*”.

No doubt, a perusal of the various orders annexed with the petition transpires that last opportunity is being granted to respondent No.1/plaintiff time and again but the evidence of respondent No.1/plaintiff has not been closed by the orders of the Court. However, it also emerges from the scrutiny of the various orders that Record Keeper of the Office of Deputy Commissioner, Jagadhri along with the record was summoned as a witness but despite service, he did not appear, as a consequence thereof, he was ordered to be summoned through bailable warrants but in compliance of the bailable warrants also, he failed to appear and vide order dated 1st February, 2017, he has been ordered to be summoned through warrants of his arrest for 10th March, 2017. It is the duty of the Court to secure the

presence of a witness and to examine him. Thus, no such direction can be issued that in compliance of the orders whereby last opportunity has been granted, the evidence of respondent No.1/plaintiff be closed by the orders of the Court. Even though it finds mention in the interim order that the evidence of respondent No.1/plaintiff shall be deemed to be closed.

The instant petition is disposed of with direction to the Court below that after securing the presence of Record Keeper of the Office of Deputy Commissioner, Jagadhri and examination thereof as a witness to pass an appropriate order on the date already fixed i.e. 10th March, 2017 or any subsequent date to be fixed by it, with further direction that the matter be taken on priority basis for its disposal.

Disposed of.

March 06, 2017

m. sharma

(JASPAL SINGH)

JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No