

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

**CR No.2048 of 2017(O&M)
Date of Decision: 17.08.2017**

**Renu Bakshi
Vs**

.....Petitioner

Prem Parkash and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. O.S. Batalvi, Advocate
for the petitioner.

Mr. R.K. Sharma, Advocate
for respondent No.1.

RAJ MOHAN SINGH, J.(Oral)

[1]. In compliance to the order dated 27.07.2017, learned counsel for the petitioner has placed on record required documents.

[2]. Perusal of the interlocutory orders passed by Civil Judge (Junior Division), Chandigarh reveals that the evidence of the plaintiff was closed on 02.02.2017 and the case was adjourned to 07.02.2017 for evidence of the defendant. On 07.02.2017, no DW was present. On request of learned counsel for the defendant, the case was adjourned to 16.02.2017. On the adjourned date i.e. 16.02.2017, no DW was present. Request for further adjournment was declined on the ground that defendant has already availed several effective

opportunities. The evidence of the defendant was closed by order of the Court and the case was adjourned to 03.03.2017 for rebuttal and arguments. It was also ordered that in case the defendant brings any evidence on the adjourned date, the Court might consider the same.

[3]. Learned counsel for the petitioner submitted that on 07.02.2017 itself, the defendant moved an application for summoning the official witnesses by depositing the diet money. The process of the Court was allowed thereby allowing the defendant to deposit an amount of Rs.230/- at his own responsibility. Thereafter, summoned witness did not appear on the adjourned date i.e. 16.02.2017 and the evidence of the defendant was closed by order of the Court.

[4] The perusal of the interlocutory orders on record shows that only 07.02.2017 was the effective opportunity granted to the defendant and thereafter, the evidence was closed on 16.02.2017. The observation that several effective opportunities were given to the defendant was against the record. Once the process of the Court was sought for summoning the official witnesses and in the event of their non-appearance, the Court was obligated to secure their presence by means of coercive method under Order 16 Rule 10 CPC.

[5]. In view of above, I am of the considered view that the

order closing the evidence of the defendant vide order dated 16.02.2017 was not in consonance with the established principles and was totally in violation of principles of natural justice. The impugned order dated 16.02.2017 is hereby set aside. Trial Court shall fix a date for summoning the witnesses for whom necessary charges have already been deposited by the petitioner/defendant. In the event of their non-appearance, trial Court shall proceed to secure their presence in accordance with law.

August 17, 2017.

Prince

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No