

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No.4012 of 2016 (O&M)
DECIDED ON: March 29, 2017

PAWANJIT SINGH

....PETITIONER...

VERSUS

BALDEV SINGH AND OTHERS

....RESPONDENTS...

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. K.S. Dhillon, Advocate for
for the petitioner.

Mr. Veneet Sharma, Advocate,
for the respondents.

JASPAL SINGH, J. (Oral)

By virtue of instant petition preferred under Article 227 of the Constitution of India, the petitioner has sought setting aside of order dated 31.08.2015 (Annexure P-6) as well as order dated 04.05.2016 (Annexure P-9) passed by Civil Judge (Junior Division) Amritsar in a Civil Suit No. 7208/17.04.2013, titled as “*Pawanjit Singh vs. Baldev Singh and others*” whereby the evidence of the petitioner-plaintiff has been closed by the orders of the court and subsequently, an application for recalling the said order has also been dismissed.

2. The contention of learned counsel for the petitioner is that both the impugned orders passed by Civil Judge (Junior Division) are not sustainable in the eyes of law, just on the ground that the plaintiff-petitioner had summoned

three witnesses namely Jarmajit Singh, Prem Kumar and Official/Clerk of the office of record room along with decided file. Requisite diet money was also deposited on 13.08.2015 i.e. much prior to the passing of the impugned order. Thus, there was no lack or omission on the part of the petitioner.

3. This Court has considered the aforesaid submissions made by learned counsel for the petitioner and find full force. After the diet money of the witnesses were deposited and the summons were issued to them for securing their presence for their examination as witnesses, it was the duty of the concerned court to have secured the presence of those witnesses for examination. If they are evading the service or are reluctant in appearing in the court, the concerned court was required to secure their presence by adopting coercive method i.e. by way of issuance of bailable or non-bailable warrants as may deem fit in the facts and circumstances of the case.

4. For the aforesaid reasons, order dated 31.08.2015, whereby the evidence of the petitioner/plaintiff was closed as well as subsequent order dated 04.05.2016, vide which, an application for recalling the witnesses was dismissed, are set aside by way of acceptance of instant petition. The trial court is directed to secure the presence of those witnesses, whose diet money has been deposited and then to examine them as witnesses. However, it is clarified that the respondents-defendants be also afforded an ample opportunity to rebut the evidence so adduced by the petitioner-plaintiff.

March 29, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: Yes/No