

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

CR No.3746 of 2017

Date of decision: May 23, 2017

Nirmala

....Petitioner

Versus

Chhaju Ram and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Rajnikant Upadhyay, Advocate
 for the petitioner.

JASPAL SINGH, J.(ORAL)

By virtue of the instant civil revision petition preferred under Article 227 of the Constitution of India, petitioner has sought setting aside the order dated 16th March, 2017 whereby a special direction was given to the petitioner to bring the evidence as well as order dated 4th May, 2017 passed by Civil Judge (Junior Division), Chandigarh under Civil Suit titled as *Nirmala and others Vs. Chhaju Ram* whereby the evidence of the petitioners/plaintiffs has been closed by the orders of the Court.

Undisputably, on the basis of an application moved by the petitioners/plaintiffs, certain officials were summoned along with the record to be examined as witness(es). Though the witnesses mentioned at Serial No.A and B have already been examined by the petitioners yet, the concerned official mentioned at Serial No.C of the application still remains to be examined. The diet money of the witness(es) was deposited with the permission of the Court on 7th January, 2017 as is evident from the endorsement on the application. It is well settled proposition of law that when a witness has been summoned through the process of the Court

at the instance of a party, it becomes the duty of the Court to secure his presence and in case such a witness does not appear in the Court in response to the summons issued to him, it is incumbent upon the Court concerned to secure his presence by adopting coercive method but in the instant case instead of adopting the coercive method for securing or procuring the presence of the witness(es), the evidence of the petitioners/plaintiffs has been closed which is not legally and factually justified.

Without commenting upon the impugned order, the instant petition is disposed of with direction to the trial Court to secure the presence of the witness(es) mentioned at Serial No.C of the application (Annexure P-4) i.e. concerned official from the office of Additional Commissioner, M.C. Manimajra Chandigarh along with record of House No.1362, Morigate Manimajra, Chandigarh and Letter No.MC/ACMC/Manimajra/2008/4499 dated 16.05.2008 and to examine him as a witness and then to proceed with the disposal of the suit in accordance with law.

Since this order has been passed in the absence of respondents, if they feel so aggrieved, they shall be at liberty to approach this Court.

May 23, 2017
m. sharma

(JASPAL SINGH)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No