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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.4776 of 2016 (O&M)

Date of Decision : 19.09.2017

NARINDERPAL SINGH @ DARSHAN SINGH AND OTHERS

....PETITIONERS

VERSUS

RAJINDER SINGH AND OTHERS

....RESPONDENTS

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Siddharth Gupta, Advocate for the petitioners.

Mr. D.S. Sandhu, Advocate for Mr. L.S. Sandhu, Advocate
for respondents No.1 to 4.

RAMESHWAR SINGH MALIK, JUDGE (ORAL)

Instant civil revision petition under Article 227 of the Constitution of India, at the hands of defendants No.1 to 3, is directed against the order dated 11.05.2016 (Annexure P-1), passed by the learned trial Court, allowing the application of the plaintiff for summoning four witnesses at the stage of rebuttal evidence, even without issuing notice of the application to the defendants-petitioners.

Notice of motion was issued and the learned trial Court was directed to adjourn the case beyond the date fixed by this Court.

Heard learned counsel for the parties.

A bare perusal of the impugned order will leave no scope for doubt that the learned trial Court proceeded in haste and exceeded its

jurisdiction, while allowing the plaintiffs to deposit the diet money without even issuing notice of the said application to the defendants-petitioners. It was not permissible in law. The learned trial Court was duty bound to issue notice of the said application to the defendants granting them an opportunity to contest the application before it could be allowed. It is so said because the defendants have already concluded their evidence and in case plaintiffs were intending to summon more witnesses at the stage of rebuttal evidence, defendants would have every right to oppose such an application. Having said that, this Court feels no hesitation to conclude that since the impugned order suffers from patent illegality, it cannot be sustained.

During the course of hearing, when the abovesaid factual as well as legal aspect of the matter was put to the learned counsel for the respondents, he had no answer and could not raise any meaningful arguments in support of the impugned order and rightly so, because no such argument would be available to him.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the view that since the impugned order has been found suffering from patent illegality, the same cannot be sustained. Accordingly, the impugned order dated 11.05.2016 (Annexure P-1), passed by the learned trial Court is hereby set aside.

Learned trial Court is directed to issue notice to the defendants-petitioners in the said application moved by the plaintiffs-

respondents. Defendants-petitioners shall be entitled to file their reply to the application and thereafter the learned trial Court shall decide the application moved by the plaintiffs, by passing an appropriate order, in accordance with law.

Resultantly, with the abovesaid observations made and directions issued, the present revision petition stands allowed, however, with no order as to costs.

**(RAMESHWAR SINGH MALIK)
JUDGE**

September 19, 2017
rajneesh

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No