

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

**CR No. 446 of 2017**

**Date of decision : 18.04.2017**

Ramesh Kumar

....Petitioner

V/s

Satya Prakash Sharma & ors.

....Respondents

**BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA**

Present: Mrs. Pratibha Yadav, Advocate for the petitioner.

Mr. Ajay Jain, Advocate for respondents no. 3, 5, 13 & 14.

Mr. Kapil Aggarwal, Advocate for respondents no. 19 to 22.

**RAJAN GUPTA J.**

Plaintiff-Petitioner has posed a challenge to order dated 19.12.2016 whereby his evidence has been closed by order. It has been pointed out that court had earlier issued bailable warrants for appearance of a witness who has to come from Nizam Institute of Medical Science, Hyderabad and depose before the court. Learned counsel for the petitioner states that without taking the proceedings to its logical end, impugned order was passed observing that plaintiff had availed several opportunities but failed to conclude his evidence.

Plea has been opposed by learned counsel appearing for the contesting respondents.

I have heard learned counsel for the parties.

I find substance in the plea of the petitioner. It is evident that order passed by trial court is short and cryptic. Having once issued bailable warrants for appearance of the witness, it has assigned no reason for closing

the evidence by putting the onus on the plaintiff to lead evidence. It is on record that plaintiff duly deposited the airfare for appearance of the witness who had to travel from Hyderabad to depose before the court. Despite this, the witness failed to appear and court closed evidence of the plaintiff by order. Under the circumstances, present petition is allowed and impugned order is hereby set-aside. Matter is remitted to the same court for decision afresh after hearing the parties.

April 18, 2017

*Ajay*

(RAJAN GUPTA)  
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No