

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 7118 of 2017

Date of Decision: 12.10.2017

Harpreet Singh

.....Petitioner

Versus

Malkeet Kaur

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Arshdeep Bhullar, Advocate
for the petitioner.

ANITA CHAUDHRY, J

The petitioner has assailed the order dated 4.10.2017 (Annexure P-1) vide which his evidence was closed by Court order.

Counsel for the petitioner contends that the plaintiff had closed her evidence on 31.8.2017 and the first date for their evidence was 11.9.2017 and they had to summon some witnesses and had deposited the process fee and diet money on 26.9.2017 and the zimni orders made available would show that the lower Court had adjourned the case from 11.9.2017 to 18.9.2017 giving one weeks adjournment and on 18.9.2017 the case was adjourned to 25.9.2017 which again was a week's adjournment and last opportunity was granted. It was urged that the order dated 25.9.2017 would show that the examination-in-chief of one witness was recorded and the case was adjourned as there was a request from the side of the plaintiff for his cross-examination and *dasti* summons were ordered to be given. The counsel further contends that the case was adjourned for 3.10.2017 and the

the case was adjourned as Court time was over and DW2 was present and partly cross-examined and he was a summoned witness whereas DW-4 was also partly examined and he was the Halqa Patwari and DW-1 i.e. defendant was also partly examined and the case was adjourned for the next date. The counsel urges that DW-1 was examined and the lower Court closed their evidence. It was urged that since the witnesses had not been bound down on 3.10.2017, therefore they failed to appear and it was the duty of the Court to issue coercive process to procure their presence. The counsel further states that the evidence was closed and the case was fixed for rebuttal evidence and arguments and hardly three weeks' time had been granted to them to complete their evidence only because there was an order passed by the Additional District Judge, Chandigarh that the suit would be disposed of preferably within six months and the Court should have given reasonable opportunity to complete their evidence.

Notice is not being issued to the respondent as it would further delay the matter.

The zimni orders placed on record do show that the matter had been rushed and three dates have been granted. Perhaps the anxiety on the part of the Court was that there was an order passed by the Additional District Judge, Chandigarh for disposal of the suit within six months. The zimni order dated 3.10.2017 shows that all the witnesses were present and the cross-examination had been deferred either because there was no document or the Court time was over. If the summoned witnesses did not turn up i.e. Halqa Patwari and the Nambardar, then coercive process should have been issued. The Court should have bound down the summoned witnesses for 4.10.2017. In view of this, the petition has to be allowed.

The case is stated to be fixed before the lower Court for 23.10.2017. The trial Court would issue coercive process/summons to secure the presence of DW-2 and DW-4 for any date convenient to it and get their statements completed.

The petition is allowed.

(ANITA CHAUDHRY)
JUDGE

October 12, 2017

Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No