

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

CR No. 8476 of 2015

Date of Decision: 18.08.2017

GOPAL KRISHAN

-PETITIONER

VS

SATISH KUMAR AND ORS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Harkesh Manuja, Advocate,
for the petitioner.

Mr. R.S. Malik, Advocate,
for the respondents.

RAJ MOHAN SINGH, J. (ORAL)

At the time of issuance of notice of motion on
14.12.2015, following order was passed by this Court:-

*“Learned counsel for the petitioner
contends that oral evidence of the defendant
was closed on 16.11.2015 and thereafter case
was adjourned for 30.11.2015 for tendering
documentary evidence. Petitioner intended to
adduce revenue record by means of
documentary evidence and the concerned
Patwari did not issue the copies of the same
for which an application was moved before the*

trial Court seeking to summon Patwari along with relevant record. The said application has been declined by the trial Court without issuing notice to the plaintiffs. Now 16.12.2015 is the date fixed for rebuttal and arguments.

Notice of motion for 26.02.2016.

In the meanwhile, trial Court is directed to adjourn the case beyond the date fixed by this Court.”

Learned counsel for the petitioner submits that oral evidence of the defendant-petitioner was closed vide separate statement recorded on 16.11.2015. Thereafter, the case was adjourned for 30.11.2015 for tendering documentary evidence and for rebuttal, if any. On the adjourned date i.e. 30.11.2015, defendant-petitioner filed an application to summon the Halqa Patwari along with record for obtaining certified copy of Aks Shijra and the revenue record in order to tender the same as documentary evidence. It was alleged by defendant-petitioner that despite filing application for obtaining certified copies of Aks Shijra and revenue record, the Halqa Patwari did not adhere to the request of the petitioner and claimed that he can only produce the record on being called by the Court.

The said prayer of the petitioner was declined by the

Civil Judge (Junior Division), Karnal vide order dated 30.11.2015 on the ground that defendant had availed seven effective opportunities for leading defence evidence.

Learned counsel for the petitioner further submits that since the case was adjourned only for the purposes of tendering documentary evidence by the defendant, therefore, by no imagination, it can be presumed that intended effort of the petitioner would cause delay in disposal of the suit.

Learned counsel for the respondent, however, vehemently opposed the prayer of the petitioner in respect of summoning the Patwari along with revenue record on the ground that the defendant has already availed numerous opportunities for the same purpose and the summoning of Patwari would cause further delay.

Having considered the submissions made by learned counsel for both the parties, I am of the view that since the case was fixed for 30.11.2015 for tendering of documentary evidence by the defendant and for rebuttal, if any, therefore, by summoning the Patwari for the date fixed, no material prejudice would have been caused to the plaintiff-respondents. Since, the defendant has already availed number of opportunities and has already closed his oral evidence on 16.11.2015, therefore, indulgence for summoning the Patwari can be given, subject to

payment of heavy costs.

Let the Patwari be summoned by the process of the Court on the adjourned date subject to payment of costs of Rs.20,000/- payable to the respondents-plaintiffs. The impugned orders are hereby set aside.

Payment of costs shall be the condition precedent for granting indulgence by the trial Court in the aforesaid context.

18.08.2017
jjyoti

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No