

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.1544 of 2018
Date of Decision.08.03.2018

Sameshta Rani

.....Petitioner

Vs

Amar Singh and others

.....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. RVS Chugh, Advocate
for the petitioner.

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AMIT RAWAL J.(ORAL)

The present revision petition is directed against the impugned order dated 08.02.2018 (Annexure P-3) whereby the evidence of the petitioner-plaintiff has been closed.

Mr. Chugh, learned counsel appearing on behalf of the petitioner-plaintiff submitted that the diet money was of Rs.250/- was deposited on 01.02.2018, thus, it was duty of the Court to ensure presence of the witnesses by resorting to provisions of Order 16 Rule 12 CPC but not in the manner and mode indicated above. He further submits that in case, one opportunity is granted, he will conclude the entire evidence.

In view of the aforementioned, the order under challenge is not sustainable in the eyes of law. Once the diet money has been deposited, it was the duty of the Court to ensure presence of the witnesses by issuing warrants or by resorting to any other remedy as envisaged under the provisions of Code of Civil Procedure but not closing the evidence. No doubt, the petitioner-plaintiff was negligent in concluding the evidence, however, in order to advance justice and prevent miscarriage of justice, I deem it appropriate to set aside the order under challenge with direction to

the trial to resort to the provisions of Order 16 Rule 12 CPC in accordance with law and ensure the presence of the witnesses.

The petitioner-plaintiff is granted one effective opportunity to conclude the evidence in accordance with law subject to payment of costs of ₹5,000/- which shall be condition precedent and defray the litigation expenses of the respondent-defendant. If the costs is not paid as directed, the order passed already by the court below shall stand restored.

The revision petition is allowed in the above terms.

(AMIT RAWAL)
JUDGE

March 08, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No