

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

**CR No.2054 of 2017
Date of Decision : 24.05.2018**

Parveen Kumari

.....Petitioner

Versus

Simpal Sanotra and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Dheeraj Mahajan, Advocate for the petitioner.
Mr. R.K.Arya, Advocate for respondent No.1.
Mr. Charanpreet Singh, AAG, Punjab
for respondents No.2 to 6 and 8.

ARUN PALLI, J. (Oral)

The petitioner is in revision against the order dated 8.3.2017, passed by the Civil Judge (Jr. Divn.), Gurdaspur, whereby the evidence of the petitioner had since been closed.

While issuing notice of motion on March 21, 2017, this Court had passed the following order:-

“Learned counsel for the petitioner submits that impugned order has been passed without taking into consideration the application seeking deposit of diet money to summon the official witnesses which was allowed by the trial Court. The petitioner has also deposited the diet money and process fee for summoning of official witnesses. The trial Court should have adopted coercive method to secure the presence of official witnesses but by giving a short date and thereafter

passing order of closing evidence is contrary to settled law.

The trial Court had various other method to procure the presence of the official witnesses. Learned counsel also relied upon a judgment of this Court passed in the case of Kulwinder Singh vs. Balkar Singh and others, 2014(3) PLR 590 in support of his argument.

Notice of motion for 4.7.2017.

Meanwhile, the trial Court is directed to adjourn the case beyond the date given by this Court.

The factual position as set out above, is not disputed by learned State counsel.

Once the application moved by the petitioner/plaintiff seeking to deposit the diet money to summon the official witnesses was allowed by the trial Court, and pursuant thereto, the requisite amount had since been deposited, the trial Court ought to have summoned those witnesses than closing the plaintiff's evidence. Be that as it may, the testimony of the official witnesses, that are sought to be summoned, shall have a decisive bearing upon the matter. Further, the petitioner being the plaintiff in the suit does not stand to gain by delaying his own cause. Thus, it indeed would be appropriate to set aside the impugned order dated 8.3.2017, and to grant opportunity to the petitioner to examine those witnesses.

Accordingly, the revision petition is allowed and the impugned order dated 8.3.2017, is set aside. The trial Court shall permit

the petitioner to examine the official witnesses as regards whom the diet money has since been deposited, on the dates, that shall be specified in this regard. Parties to appear before the trial Court on the date already fixed.

24.05.2018

Manoj Bhutani

(ARUN PALLI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No