

Civil Revision No.2230 of 2018

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

Civil Revision No.2230 of 2018

Date of decision: 05.04.2018

Dharampal

.....Petitioner

versus

Parhlad and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. S.K. Aggarwal, Advocate, for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this revision under Article 227 of the Constitution of India, challenge has been laid to order dated 28.03.2018 of the trial Court, whereby application of the petitioner-plaintiff for summoning of witnesses was rejected.

Learned counsel for the petitioner *inter alia* contends that evidence of the petitioner-plaintiff has not yet concluded. The trial Court has dismissed the application of the petitioner-plaintiff for summoning of witnesses in view of the provisions of Order 16 Rule 1 CPC without appreciating the fact that the same is not mandatory, but directory in nature.

Having given considerable thought to the submissions made by learned counsel for the petitioner, I find merit in the instant revision taking into consideration the judgment of this Court in ***M/s Steel Authority of India Ltd. v. M/s Steel Strips and Tubes Ltd.***, 2007(3) R.C.R.(Civil) 635, whereby it has been held that “provisions of Order 16 Rule 1 CPC are not mandatory but only directory. The procedural laws are meant for advancement of justice and not to subvert the same. Mere delay in

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supplying list of witnesses is not a sufficient ground to refuse summoning the witnesses.”

That apart, since evidence of the petitioner is still continuing, so in the considered opinion of this Court, no prejudice is going to be caused to the other side, in case, the official witnesses sought to be summoned by the petitioner are summoned with the assistance of the Court and examined.

In view of the discussion above, impugned order is set aside. The trial Court is directed to summon the two witnesses mentioned in the application submitted by the petitioner and examined. Petitioner is also directed to make serious efforts to conclude his evidence by next date of hearing, if possible, otherwise to explain the reasons before the trial Court for the same.

This petition is disposed of without issuing notice to the respondents with a view to impart justice to the parties and to save the huge expenses which may be incurred by the respondents and also to avoid unnecessary delay in the adjudication of the matter. Still, if dissatisfied, the respondents may move this Court for recalling this order within six weeks from today.

April 05, 2018
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No.