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

**Civil Revision No.2346 of 2017 (O&M)
Date of Decision:17.09.2018**

Balwinder KaurPetitioner
Vs
Darshan Singh and othersRespondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Hem Raj Bhardwaj, Advocate
for the petitioner.

Mr. J.S. Bhinder, Advocate
for respondents No.1, 2, 4 & 6.

Ms. Navneet Kaur, Advocate for
Mr. R.S. Sidhu, Advocate
for respondents No.7 and 9.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has assailed the order dated 02.02.2017 passed by the Civil Judge (Jr. Divn.) Sunam vide which oral evidence of the plaintiff No.4 was closed by order of the Court.

[2]. Perusal of the record would show that issues were framed on 10.11.2015. Thereafter plaintiffs' evidence started w.e.f. 25.01.2016. On 25.01.2016 and 18.04.2016, no evidence of the plaintiff was present and the case was accordingly adjourned to 25.05.2016. On the adjourned date, PW-1 Sukha Singh and PW-2 Paramvir Singh were examined completely and

the case was adjourned to 20.07.2016. There was no evidence of the plaintiff present on 20.07.2016 and the case was adjourned for 19.08.2016. PW-3 Parveen Kumar was examined completely on 19.08.2016 and thereafter the case was adjourned for 29.09.2016, 20.10.2016, 21.11.2016 and 16.01.2017 for examining the concerned witnesses i.e. official witnesses with the process of the Court.

[3]. The summoned witnesses did not turn and the trial Court did not proceed in terms of Order 16 Rule 10 CPC in order to secure the presence of the summoned witnesses for securing their presence by coercive method. The evidence of the plaintiff was closed on 02.02.2017 after recording the fact that PW-4 Balwinder Kaur was examined-in-chief completely and her cross-examination was deferred at the instance of the defendants. The case was adjourned to 27.02.2017 only for cross-examination of PW-4 and documentary evidence, if any. Oral evidence of the plaintiff was closed by order vide the impugned order.

[4]. Though perusal of the orders dated 25.01.2016, 18.04.2016 and 20.07.2016 would show that there was some lach on the part of the plaintiff in not producing her evidence, but subsequent orders would show that the trial Court did not secure the presence of summoned witnesses in terms of Order

16 Rule 10 CPC.

[4]. On the other hand, learned counsel for the respondents, opposed the prayer on the ground that nine effective opportunities were availed by the plaintiffs.

[5]. Be that as it may, I deem it appropriate to grant one effective opportunity to the plaintiff/petitioner for examining left out witnesses, keeping in view the nature of evidence to be led by her, she can seek indulgence of the trial Court to secure presence of the summoned witnesses in accordingly with law.

[6]. In view of above, this revision petition is allowed. Impugned order dated 02.02.2017 passed by the Civil Judge (Jr. Divn.) Sunam is set aside, however subject to payment of costs of Rs.15,000/- to be deposited with the Registrar General of this Court, who shall further deposit the same in Kerala Chief Minister's Distress Relief Fund towards relief to Kerala flood victims.

[7]. Payment of cost shall be the condition precedent for granting indulgence by the trial Court in the aforesaid context.

September 17, 2018

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No