

252

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

**Civil Revision No.2422 of 2018
Date of Decision: 01.08.2018**

**DHARM PAL
Vs**

.....Petitioner

KULDEEP SINGH

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Suryakant Gautam, Advocate
for the petitioner.

Mr. Navneet Singh, Advocate
for the respondent.

RAJ MOHAN SINGH, J. (Oral)

Petitioner has assailed the order dated 30.03.2018 passed by the Civil Judge (Sr. Divn.) Panipat, whereby evidence of the defendant/petitioner was closed by order of the Court.

Perusal of the record would show that Sadar Kanungo was summoned with the process of the Court to bring the relevant record viz.-a-viz. excerpts of the land. Despite service, he did not appear and his presence was sought to be served by means of coercive method.

The impugned order came to be passed without securing the presence of Sadar Kanungo. Perusal of the same would show that it was passed only on the premise that the

defendant has already availed 15 effective opportunities including last opportunity, but despite that he has failed to conclude his evidence.

Once the process of the Court was allowed to be utilized in favour of the defendant while summoning Sadar Kanungo, then in the event of his non-appearance, it was obligated on the part of the trial Court to secure his presence in terms of Order 16 Rule 10 CPC. The impugned order would further show that though bailable warrants were issued against the Sadar Kanungo, but without completing the required exercise, evidence of the defendant was closed by order of the Court.

In view of aforesaid, in my considered opinion the impugned dated 30.03.2018 passed by the Civil Judg (Sr. Divn.) Panipat is liable to be set aside. Ordered accordingly. This revision petition is allowed. Trial Court shall secure the presence of summoned witness by means of coercive method in terms of Order 16 Rule 10 CPC and thereafter the Court shall proceed to decide the case in accordance with law.

August 01, 2018

Atik

**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No